

CHAPTER 10

RESPONSES TO COMMENTS

This Chapter contains the responses to comments made on the DEIR during the public review period and during the administrative hearing on the DEIR. The responses are numbered; the numbers correspond to the numbers assigned to each comment in Chapter 9.

STATE AGENCIES

State Lands Commission

S1 Comment noted.

Department of Fish and Game

S2 Concerns regarding the inadequacy of the proposed HMP are noted. Mitigation Measure M4.11-3(a) provides a framework for revising the proposed HMP, addressing concerns expressed by the commentor regarding lack of consistency between the proposed HMP and the CDFG *Draft Mitigation Guidelines for Swainson's Hawk*. These include the total required mitigation acreage for the project, mitigation credit prescription ratios, acceptability of establishing mitigation credit for nesting habitat, inaccurate information on nesting territories and mitigation for on-site nest locations, appropriate crop types and minimum ratio of mitigation lands devoted to alfalfa, restrictions on the use of rodenticides, and the need for details regarding phasing and monitoring of the various mitigation options and how they would be coordinated as part of the overall HMP.

As recommended in M4.11-3(a), a copy of the fully executed habitat management agreement with the CDFG must be submitted to the San Joaquin County Community Development Department prior to issuance of any permits or initiation of any improvement. This would ensure that the concerns of the CDFG are fully addressed before any project-related habitat modification or loss were to occur. Given the framework for necessary revisions to the proposed HMP identified in M4.11-3(a), details regarding necessary revisions to the proposed HMP specified by the CDFG in their comments on the DEIR, and the requirement for a completed habitat management agreement before any habitat modification is permitted, the suggested delay in certification of the EIR until the HMP is revised is unwarranted.

Delta Protection Commission

S3 Comment noted.

Department of Transportation

S4 The projected traffic volumes were developed from the San Joaquin County Travel Model, with minor adjustments (increases) to reflect inherent model calibration errors; the volumes appear to be correct as stated. The daily volume on I-205 east of 11th Street (115,100) is lower than the volume east of Patterson Pass Road (136,500) due to the addition of freeway traffic to/from 11th Street. The decrease in traffic west of Patterson Pass Road is due to freeway traffic to/from Patterson Pass Road, which is primarily oriented to the east (much of the Mountain House traffic headed west would use Grant Line Road to I-580 instead).

S5 The Draft Master Plan proposes industrial uses along much of the I-205 frontage with a minimum 40-foot buffer. Mitigation Measure M4.14-1 contains detailed mitigation alternatives (setbacks, berms, soundwalls, or a combination) for the industrial and residential uses along I-205 to mitigate noise impacts from I-205.

Comment noted regarding need to advance the schedule for beginning the I-205/Patterson Road interchange PSR. This comment also refers to the "trigger points" proposed in Table 9.1 of the Draft Master Plan, as summarized in Table 3.7 of the DEIR. As noted on page 4.12-12 of the DEIR, the DEIR does not evaluate the adequacy of the trigger points. However, Mitigation Measure M4.12-3 on page 4.12-33 of the DEIR provides for County review and revision of the trigger points listed in the Draft Master Plan prior to approval of the first Development Permit. The DEIR does not include analysis of any proposed designs for the I-205/Patterson Pass Road interchange or mainline. These design details will be identified and analyzed in the PSR's that will be prepared, according to the "trigger points" identified in Table 9.1 of the Draft Master Plan.

S6 Comment noted regarding difference between the potential "fair share" contribution based on the percentage of project trips on I-205 versus the commitment shown in the Draft Public Financing Report (Taussig and Associates, 1994). The percentage of project trips shown in the DEIR is a reasonable first estimate of fair share, but may be refined by the County to consider additional locations within the segment, peak hour trips, and other factors. These refinements may increase or decrease the fair share amounts but are not likely to remove the discrepancy. Mitigation Measure 4.12-2 has been expanded to provide for revisions to the Draft Public Financing Report to reflect fair share contributions based on refined San Joaquin County Travel Model estimates.

S7 The referenced Appendix H is not part of this project. The other comments are noted. Provisions for adding a PSR for I-580/Grant Line Road in Table 9.1 are included in Mitigation Measure M4.12-3, and this mitigation measure has been revised to include explicit consideration of other planned projects affecting the interchange, such as truck climbing lanes.

S8 Comments noted. These comments pertain to the proposed project and not the DEIR.

Resources Agency, Department of Conservation

- S9 This comment pertains to the proposed project and requests coordination with the Division of Oil and Gas on-site development. Please note that the Draft Master Plan proposes that the location of abandoned gas wells be identified and closed prior to submittal of any tentative map. Also, the project includes proposals for significant open spaces that could provide for areas of future gas exploration.
- S10 Comment noted.
- S11 Comment noted.
- S12 Comment noted. Additional references for regional geological conditions have been added on pages 4.6-1 and 4.6-5 of the DEIR and in Appendix G.
- S13 The text on page 4.6-8 of the DEIR has been revised to specify the 1994 Uniform Building Code as the current code regulation adopted by San Joaquin County.
- S14 The California Amendments to the Uniform Building Code (UBC) [section 2333.(b)] specify that the portion of San Joaquin County northeast of I-580 (which could include the Mountain House New Town site) is included in Seismic Zone 3. Although we agree with the commentor that the site could be subjected to strong ground shaking, the County would not have the authority to change the UBC seismic zone boundaries (i.e., to include Mountain House in Zone 4). Such a change would require approvals by the California Building Standards Commission and Seismic Safety Commission following the State code adoption process.
- The text of Appendix G of the DEIR has been revised to provide a discussion of the Coast Range-Sierran Block Boundary (CR-SBB) Zone, the potential seismic source discussed in the comment.
- S15 See Response S14.
- S16 Site-specific subsurface investigations and regional mapping indicate that the geology of the Mountain House New Town site is significantly different from the sites investigated in the Volpe, et al. (1992) investigation of liquefaction hazards along the Mokelumne Aqueduct. The majority of the project site is underlain by alluvial fan deposits. The upper twenty feet of sediment underlying the site are predominantly stiff to very stiff clay and silty clay with thin medium dense to dense silt and sand deposits. The cited study evaluated sites within the Delta, underlain by Delta peat and loose to medium dense sand deposits, typically having a much higher liquefaction potential than the alluvial fan sediments at the project site. However, the area along Old River (including the locations of the existing and proposed levees) at the northern margin of the site may be underlain by Delta sediments. The text of section 4.6 of the DEIR provided a general description of the liquefaction hazards. The preliminary soils

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reports for subdivision of land within Mountain House would require site-specific evaluation of liquefaction hazards.

S17 See Response S14.

S18 Figure 4.6-2 has been revised to show the Vernalis and Stockton Faults and the approximate position of the Coast Range-Sierran Block Boundary (CR-SBB Zone). The text of Appendix G has been revised to describe the CR-SBB Zone (including discussion of the folding subparallel to the Vernalis and San Joaquin Faults) and its seismo-tectonic significance.

Governor's Office of Planning and Research (State Clearinghouse)

S19 Comment noted.

LOCAL AGENCIES AND DISTRICTS

City of Tracy

- L1 As the DEIR notes on page 5-1, the Tracy Alternative Site was fully described in detail in the two previous EIRs for the project (the Mountain House New Town General Plan Amendment Final EIR, March 1992 and the Final Supplemental EIR, January 1993). This DEIR does not reiterate the detailed description of the Tracy Alternative or the discussion of impacts (see the description of the Tracy Alternative and the discussion of Land Use, Public Utilities, Fiscal and other impacts related to the Tracy Alternative contained in the Final EIR, pages 5-4 and 5-23 through 5-35, and in the Final Supplemental EIR, January 1993, pages 5-4 and 5-20 through 5-22).
- L2 Comment noted. See Response L1. The previous Final Supplemental EIR noted that the Tracy Urban Management Plan proposes Very Low, Low, and Medium Density Residential uses for the Tracy Alternative Site (page 5-21 of the FSEIR). The FSEIR noted that the San Joaquin County General Plan 2010 designates much of the land that would be included in the Tracy Alternative Site as General Agriculture. While it is true that both the City and the County plans designate lands for urban growth west of the existing City of Tracy, the County General Plan does not designate any land west of Lammers Road for urban residential development, as does the Tracy Urban Management Plan. It should be noted that the San Joaquin County General Plan 2010 was amended in February 1993 to include the Mountain House new community, at the time that the City of Tracy was preparing the update to their General Plan. The County requested that the City include the Mountain House project in the Tracy Urban Management Plan, which was subsequently adopted in June 1993. The City of Tracy chose not to include the Mountain House new community land uses in the Urban Management Plan.

- L3 Comment noted. The discussion of impacts related to the Tracy Alternative Site contained in the previous FEIR indicated that "potential impacts of marina development on Old River associated with the proposed project would not occur with this alternative" (page 5-29).
- L4 Comment noted.
- L5 The commentor is correct in asserting that service extension beyond freeways and legislative boundaries is fairly common, particularly for sewer, water, and mutual aid. However, it is not entirely accurate to state that "In addition, at any time if proposed services become a reality, either the CSD governing board or Board of Supervisors may direct services to be extended." The DEIR notes "However, growth south of I-205 will be prohibited from receiving services from Mountain House" (bottom of page 6-23). The new community policies contained in the San Joaquin County General Plan 2010 require that "New communities shall be served by community water, sewage disposal, and terminal drainage systems, with the systems designed in such a manner as to be capable of serving only the proposed new community" (Growth Accommodation Policy 19(d), page IV-7). Because the Mountain House infrastructure systems have been sized to serve only the project itself, the CSD board or Board of Supervisors could not routinely extend services across I-205 or outside the new community boundaries.
- L6 Comment noted. Seismicity has been identified as an unavoidable adverse impact, since ground shaking could occur at the site due to activity along regional active or potentially active faults. Compared to the effects of possible seismic events in the Bay Area, the project site may experience less damaging effects.
- L7 The Draft 1993 San Joaquin Kit Fox Habitat Conservation Plan was prepared by San Joaquin County as partial mitigation for the Patterson Pass Business Park/Safeway regional warehouse projects. The plan was prepared with the assistance of California Department of Fish and Game and U.S. Fish and Wildlife staff. The draft plan has not been heard in public hearing at either the San Joaquin County Planning Commission or Board of Supervisors due to lack of staff. State wildlife agency staff have stated that the CDFG will use the results of the kit fox surveys contained in the draft plan in their review of development projects in the area, and in directing the location for potential conservation easements (Gifford, 1993). It is valid to use the draft plan in this DEIR as "best available information."
- L8 Comment noted. County staff and the DEIR consultants have met on several occasions with City of Tracy staff during the preparation of this and previous EIRs to discuss transportation issues and mitigation measures.
- L9 The DEIR transportation analysis includes Impact M4.12-4, which identifies impacts to County and other local roads in the vicinity of the project. The associated Mitigation Measure M4.12-4(a) specifically requires that "The community shall, to the extent of its fair share, participate in appropriate traffic studies and improvement measures with other counties and cities whose roadways are impacted by the community. The specific roadway improvements that shall be

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studied include 11th Street and Grant Line Road (east of Patterson Pass Road) (City of Tracy)..."

Figure 4.12-8 shows a two percent increase in the daily traffic volume on 11th Street east of Corral Hollow Road, with the addition of project-generated traffic. The transportation analysis in the DEIR indicates a projected 2010 peak hour level of service (LOS) of either "C" or "D" on 11th Street, depending on the location, which is consistent with the Congestion Management Plan standard for the roadway of LOS D. The multi-county regional transportation model used for the analysis outside the new community is not capable of generating detailed intersection level volumes without further modification, so additional analysis within the City limits has not been attempted. Instead, the mitigation measure requires the project's participation if more detailed studies are conducted in the future.

- L10 Analysis of Grant Line Road east of Lammers Road is included in Table 4.12-21, and indicates the potential need for widening to four lanes from Byron Road to Tracy Regional Mall. This specific recommendation is already included in Mitigation Measure S4.12-4(g) and has also been added to Mitigation Measure M4.12-4. The original Mitigation Measure S4.12-4 required the initiation of discussions with City of Tracy since any widening of Grant Line Road would directly impact and benefit access to the Mall. Under policies of the Draft Master Plan (not repeated for the Specific Plan), Mountain House would be responsible for its fair share of any costs of widening and other related improvements to Grant Line Road such as traffic signal installation. Mitigation Measure S4.12-4 has been amended to require fair share funding from both the project and the City of Tracy. With regard to the I-205/Grant Line Road interchange, see Response L12.
- L11 A Middle Road expressway paralleling I-205 was not assumed in the 2010 transportation network because it is not defined in the SJCCOG Regional Transportation Plan network, the Draft Master Plan, nor the 1993 Tracy Urban Management Plan. However, for the Master Plan analysis, the DEIR assumed continuation of Middle Road as a two-lane arterial easterly from near Byron Road to Chrisman, and then easterly as a four-lane expressway to Louise Avenue in Lathrop. Tables 4.12-11A and 4.12-11B of the DEIR show projected 2010 traffic volumes and levels of service at several locations along this route. The DEIR has been revised on pages 4.12-29 and 4.12-43. Mitigation Measure M4.12-2 has been added to recommend further improving this route as an alternative to widening I-205 from six lanes to eight lanes, including fair share funding by the project. Also see Response L139.
- L12 Regarding Item 1, impacts on the I-205/Grant Line interchange were analyzed by comparing projected 2010 traffic volumes with and without the project. The project would increase the daily traffic volume on Grant Line Road at I-205 by only 4,000 vehicles, which is about six percent of the arterial traffic entering the interchange. Accordingly, specific mitigation measures were not identified for the I-205/Grant Line Road interchange. This would not, however, preclude use of regional fee contributions to interchange improvements. As indicated on Figure 4.12-8 of the DEIR, projected traffic increases due to Mountain House are much

greater farther west on Grant Line Road (up to 20,000 daily vehicles), indicating that most of the added traffic is between Mountain House and the Tracy Regional Mall area rather than Mountain House traffic accessing I-205 freeway. This traffic increase on the west end may be conservatively overstated, since the number of trips generated by the Mall and adjacent area in the County model is higher than indicated by the commentor.

Regarding Item 2, all routes were considered in the DEIR analysis, but only those that were closest to the project and/or significantly impacted (in terms of added traffic due to the project) were reported in the DEIR. Further review of the data indicates that one of the listed routes (Byron Road east of Lammers Road) is projected to be significantly impacted with addition of the Mountain House project, with 2010 daily traffic increasing from 10,900 vehicles without the project to 14,500 vehicles with the project. This roadway segment has been added to Table 4.12-10, and Mitigation Measure M4.12-4(c) has been revised to include widening of Byron Road to four lanes if the County requires that LOS C be maintained. On all other listed roadway segments, projected traffic increases due to the project would be less than significant and no mitigation measures would be necessary.

Regarding Item 3, the City of Tracy's adopted standards have been used in assessing potential LOS deficiencies along roadways adjacent to, or within, the City limits. It is not possible to use the City's LOS standards throughout the Urban Management Plan area because the very large planning area extends all the way to the Alameda County line.

Regarding Item 4, the DEIR recommends participation in required mitigation measures within the City of Tracy, in addition to the improvements listed in Table 9.2 of the Draft Master Plan. Specifically, portions of 11th Street, Grant Line Road, and Byron Road are within the City of Tracy. The DEIR does not address specific funding mechanisms for improvements within the County or the City; these are addressed in the Draft Master Plan and its Draft Public Financing Report, and may include up-front funding of needed improvements with reimbursement over time from other development projects and the County's local and regional traffic impact mitigation fee program.

With regard to demonstrating reasonable assurances that mitigation measures will be implemented, the mechanisms for funding are embodied in the County's traffic fee program in which the project would participate. Traffic fees account for fair share contributions to all local and regional improvements to be needed beyond those funded in the Regional Transportation Plan and by local jurisdictions. It is expected that the various projects listed in the Draft Master Plan, as well as additional local improvements identified as mitigation measures in this DEIR, would be funded directly by the project proponent, with credits taken against local traffic fees. The project would also contribute to other regional improvements (where fair shares may be relatively small) through the County's regional traffic impact fee.

- L13 Access to these generators would be primarily via Grant Line Road or 11th Street. These routes are addressed in the DEIR.

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- L14 Comment noted regarding low percentage of operating cost covered by farebox revenues. It is expected that transit service between Tracy and Mountain House would be provided as a part of a countywide transit system.
- L15 The residential absorption rate that is presented by the applicant as part of the Project Description is an average of 800 units per year over 20 years. It should be noted that the growth rate projected for Specific Plan I (the first seven or more years of the project) starts out in the first year at approximately 290 units reaching approximately 800 units per year toward the end of Specific Plan I, for an average absorption rate of 600 units per year.

The projected absorption rate for the new community can be compared to recent construction activity experienced in southwestern San Joaquin County (the Tracy-Manteca area) during the recessionary years since 1990, as well as the "boom" construction years of the late 1980s. Surprisingly, the building rates for the last several years have not been significantly less than during the previous five-year period.

According to the California Department of Finance, between January 1990 and January 1994, the housing stock for Manteca grew by 998 units, for an annual average of 250 units per year. In Tracy, the housing stock grew by 2,879 units over the four-year period, for an annual average of 720 new housing units per year. Thus, recent growth rates for these two cities in southwestern San Joaquin County have been about 970 units per year. In comparison, during the latter half of the 1980s (1985-1989), the average annual growth experienced in the southwestern County area was about 1,075 units per year. It should be noted that, during a portion of the 1985-1990 period, the City of Tracy had a building moratorium, so City growth was lower than expected.

If the overall absorption rate for the project over a twenty-year period does not reach 800 units per year, then the project would take more than twenty years to build out. Most of the analysis of environmental impacts included in the DEIR examined the impacts at the end of Specific Plan I (when approximately 4,200 units would have been built over a seven year period) and buildout of the entire project (approximately 16,100 units built over twenty years). Thus, all of the environmental analysis of Specific Plan I assumes an absorption rate of 600 units per year, and the full project analysis assumes 800 units per year. If either the Specific Plan I or the entire project takes longer to build out, then the environmental impacts identified in the DEIR would not be expected to be any greater, with the exception of impacts related to jobs/housing balance and transportation. If the residential absorption rate were slower than expected, it is likely that job development on the site would also lag, since population-serving retail and services would not locate in the project until a minimum population had been established.

An analysis of a project's economic and fiscal impacts are not required under the California Environmental Quality Act (CEQA), and the DEIR does not address these issues. The following information is provided for the commentor's information.

While the DEIR discusses only one assumed absorption rate for the project, the applicant and their consultants have actually used two separate absorption rates in the background studies related to fiscal and financial issues. The Mountain House Draft Public Financing Report (Taussig and Associates, 1994) examines in detail the ability of the project's land uses to fund the required public facilities and services. The report uses both a High Growth Scenario absorption schedule, as well as a Low Growth Scenario. The High Growth schedule assumes that the residential component of the project would build out over a period of twenty years (an average annual absorption of 800 units) and the commercial/industrial lands would develop over 22 years. The Low Growth schedule assumes that housing in the project will be entirely absorbed over a 30 year period, and the non-residential land uses will take 40 years to fully develop. The Low Growth absorption schedule is equivalent to an average rate of growth of 460 housing units per year, with a final build out total of 13,900 units.

The Draft Public Financing Report includes separate studies that examine the financial feasibility of the project (looking at the burdens placed upon homeowners and other property owners to pay off Mello-Roos bonds and other financing instruments) and the fiscal impact of the project on the County's General Fund and other County funds. Both the financial and fiscal analyses use the High and Low Growth Scenarios. The results of the analyses indicate that the annual burden on residential land use (the amount of property, Mello-Roos, and other taxes the average homeowner would be required to pay) would be slightly higher (about 1.56 percent of assessed value) under the Low Growth Scenario than under the High Growth scenario (about 1.45 percent of assessed value). There is no indication in the analysis that the longer build out period under the Low Growth Scenario would render any of the financing programs infeasible.

In terms of the fiscal impacts of the project, if the Low Growth absorption schedule were experienced by the project, the fiscal benefits to the County General Fund are projected to be \$3.8 million at buildout, while the impact under the High Growth schedule would be \$5.5 million at buildout. Negative fiscal impacts to the County General Fund are anticipated during the first two years of the High Growth Scenario and during the first three years of the Low Growth Scenario.

- L16 Short- and long-term impacts to the main arterials connecting into the City of Tracy street system (Grant Line Road, 11th Street) have been addressed in the Transportation section. As noted in Response L9, the multi-county regional transportation model used in the analysis does not project detailed intersection turning movements within the City. Instead, Mitigation Measure M4.12-4(a) specifically recommends that "The community shall, to the extent of its fair share, participate in appropriate traffic studies and improvement measures within other counties and cities whose roadways are impacted by the community. The specific roadway improvements that shall be studied include 11th Street (City of Tracy)..." Mitigation Measure M4.12-4(b) recommends that the project contribute a fair share for funding and operating local transit service between the City of Tracy and the project to reduce project vehicle trip impacts to 11th Street and Grant Line Road.

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The DEIR notes on page 4.3-3 that the Draft Master Plan proposes that neighborhood parks would begin construction after 50 percent of each neighborhood is completed and would be completed before 80 percent of the neighborhood is built out. First phase development of sports fields would likely be constructed after about 800 units have been built and the first community park would be constructed prior to the issuance of the 2,000th building permit. Mitigation Measure M4.3.1-1 recommends that the Draft Master Plan be amended to ensure that neighborhood and community park facilities are available to the first residents. Because the project is proposing at least five acres of local parks per 1,000 residents on-site, there is not anticipated to be any impacts from project residents relying on City of Tracy neighborhood or community parks for recreation needs.

The DEIR notes on page 4.3-26 that the project would be served by a bookmobile and interim leased facilities until the population would support the construction of a full-service branch library.

See Response L5 regarding growth-inducing impacts as they relate to the freeway.

LAFCO

L17 Comment noted.

Tracy Rural County Fire Protection District

L18 These comments pertain to the proposed project. The comments are noted.

City of Livermore

L19 An evaluation of the commute patterns and modes of transportation of residents and employees within the community would be monitored on an annual basis during a review program set forth in the Draft Master Plan, Section 3.9 (Jobs/Housing and Affordable Housing, Monitoring and Enforcement) and Section 3.10 (Community Monitoring Programs). In addition, Mitigation Measure M4.12-1 in the DEIR recommends that the applicant develop a Transportation Monitoring Program that would serve as a means of comparing the actual traffic generated by the project to the traffic projections, that would allow the County to assess the applicants' commitment to on-site employment opportunities, ride sharing, and transit usage, and that would monitor project-related impacts to State highways and interchanges (page 4.12-20). A specific, defined target for reducing single occupant vehicle trips has not been established; instead, if expected traffic impacts for the community are determined during annual monitoring to be higher than projected, certain actions will be taken by the County, such as increasing job development efforts or providing more affordable housing on-site (see Mitigation Measures M4.9-1 and M4.9-2).

L20 The Draft Master Plan proposes that annual monitoring of the project begin as soon as construction is started. An annual monitoring report should track statistical information, such as housing densities, costs, and household incomes; business and job development; vehicle

miles traveled by commuters; progress of ride sharing and other Transportation Demand Management Programs; and sales and property taxes collected. Jobs/housing ratios and affordable housing progress will be tracked to ensure that specific ratios or affordability indices shall be met at 4,000 unit intervals. The applicant has proposed that the first measurement of success in meeting the targeted jobs/housing ratio or affordability index shall not occur until the first 4,000 units of the project have been completed.

However, Mitigation Measure 4.9-1(d) has been modified to require that the Jobs/Housing Program be reviewed by the San Joaquin County Board of Supervisors at three year intervals after residential construction begins, in place of intervals of 4,000 units. The proposed absorption schedule for Specific Plan I indicates that 1,245 units are expected to be completed by the end of the third year of construction, and 3,254 units are expected by the end of the sixth year.

East Bay Regional Park District

- L21 Comment noted. The DEIR identifies the lack of regional parks as a significant environmental impact and provides a range of mitigation measures on pages 4.3-4 and 4.3-5.
- L22 The text of the DEIR has been changed on pages 4.3-4 and 4.3-5 in response to this and other comments. It is now recommended that a reciprocity agreement be discussed between EPRPD and the County.
- L23 Comment noted.
- L24 Comment noted. Details regarding mitigation for loss of kit fox habitat would depend on further negotiations with the USFWS and the CDFG, as stated in M4.11-2(a) on pages 4.11-28 and 4.11-29 of the DEIR.
- L25 Comment noted.

Alameda County Planning Department

- L26 The commentor has requested that additional analysis be provided assuming that job creation on the project site will be significantly lower than the applicant projects. The DEIR transportation analysis for Specific Plan I examines impacts in the year 2000 for two growth scenarios: an "Expected Employment" scenario and a "Full Employment" scenario. The Expected Employment scenario assumes completion of the housing component of Specific Plan I (4,139 units) by 2000, with creation of 4,370 jobs, which is one-half the employment potential for Specific Plan I. The Full Employment scenario assumes full buildout of housing and employment-generating land uses by year 2000, which is equivalent to 9,700 jobs (see pages 4.12-52ff). The DEIR did not analyze impacts related to job creation of less than 4,370 positions by the year 2000 because traffic generation would be less than the "worst case" scenario associated with the Expected Employment land use scenario.

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The analysis of the two land use scenarios indicates that the Full Employment scenario would generate about 71,500 trips, while the Expected Employment scenario would generate about 55,300 vehicle trips during the day. The percentage of internal trips (those that stay within the project, e.g., residents driving to jobs or services within the site) compared to all trips is about the same for both scenarios (37 percent). Under both scenarios, internal trips would account for 31 percent of the total AM peak hour and 33 percent of the total PM peak hour vehicle trips (page 4.12-54 of the DEIR).

Table 4.12-17 compares external trip generation of the two land use scenarios. In the AM peak hour, the Full Employment scenario would generate slightly fewer trips outbound to other areas, but would generate significantly more trips inbound to the project than the Expected Employment scenario. Overall, the Full Employment scenario is a worst-case scenario in terms of external traffic generation, with about the same number of AM peak hour trips outbound from the project (workers commuting to jobs elsewhere) under both scenarios, but during the PM peak hour the Full Employment scenario generates more traffic that is outbound (workers at the project leaving their jobs) than inbound. The two scenarios produce about the same amount of PM peak hour traffic that is inbound (project residents returning from their jobs elsewhere).

The results of the DEIR analysis suggest that a further decrease in the number of jobs under Specific Plan I would result in an overall reduction in traffic generated by the project, and a further reduction in the amount of peak hour traffic that is outbound during the morning commute and inbound during the evening commute. Thus, if fewer on-site jobs were created in comparison to housing than has been projected, the overall amount of outcommuting (and the impacts to regional freeways) would not be expected to increase.

This conclusion is consistent with the results of the traffic modeling for different job assumptions for buildout of the entire project, not just the Specific Plan I, that was included in the previous FEIR (March 1992). That FEIR analysis tested the impacts related to two different housing/employment assumptions for the year 2010: full buildout of all housing in the project (16,000 units) with a "Market Constraint" employment buildout (8,583 jobs) and with a "Proposed Project" buildout (19,880 jobs).

The fiscal and financial impacts related to different amounts of on-site job growth are not addressed in this DEIR because economic issues are not required to be analyzed under the California Environmental Quality Act. However, High and Low Growth scenarios for the project were analyzed for fiscal and financial impacts in the Mountain House Draft Public Financing Report (Taussig and Associates, 1994). The report's findings are summarized in Response L15.

- L27 The commentator requests that additional actions that could be taken should be added to the Jobs/Housing and Affordable Housing monitoring programs. These actions include the withholding of further residential building permits or reducing the allowed number of housing

units for the project, if the anticipated number of on-site jobs are not created. Mitigation Measure M4.9-1 has been modified to allow the County to restrict approvals of further residential development for the new community in the event that jobs/housing and affordable housing goals are not achieved.

- L28 Mitigation Measure S4.9-2 recommends that Specific Plan I be amended by redesignating an additional four to five acres of land for high density affordable housing. A similar measure that applies to the entire project, Mitigation Measure M4.9-2(a), recommends that an additional 17 to 22 acres of land should be redesignated for High Density affordable housing. This redesignation could yield approximately 300 to 400 affordable units. The DEIR incorrectly notes that the shortfall between the number of affordable units planned in Specific Plan I (982 units) and the number required to meet the affordable housing goals (982 units) is 490 units. The shortfall is actually 640 units, not 490. The typographical error has been corrected in the text and Table 4.9-7.

Mitigation Measure S4.9-2 did not recommend that more land within Specific Plan I be redesignated to make up the full shortfall in affordable units because later phases of the project (especially the latter one-half of the project) proposes to construct more than enough affordable units to meet the affordability goals. By the time the project would be three-quarters completed (after approximately 12,000 units have been completed), a total of 2,776 affordable units would have been built, which would meet the goal of 2,660 affordable units (see Table 4.9-6). At full buildout of the project, 3,342 affordable units would have been completed, which would meet the affordable housing goal of 3,081 units.

- L29 Comment noted. Mitigation Measure M4.9-2(a) recommends, as an alternative, that an additional 17 to 22 acres of land be designated for High Density housing. The San Joaquin County Affordable Housing Task Force, a committee appointed by the Board of Supervisors, submitted affordable housing guidelines to the Board in 1993. The Board has not taken action on the proposed guidelines. No other specific affordable housing guidelines that apply to new development or to new communities have been adopted by the County.
- L30 Comment noted regarding fair share and trigger points. Regarding analysis of alternative scenarios with lower employment assumptions, see Response L26. It should be noted that the transportation modeling performed by the DEIR analysis does not assume a rate for the project's internal trip-making; rather, the computer model projects an internal trip rate based on the mix of land uses and other factors. Regarding the developer's responsibility for mitigating transportation impacts in Alameda County, see Mitigation Measures M4.12-1(h) (regarding fair share funding of rail facilities), M4.12-2 (requiring fair share contribution of Altamont Pass Road is improved), M4.12-3(b) (requiring preparation of a Project Study Report to identify fair share contributions to the I-580/Grant Line interchange), and M4.12-4(a), M4.12-4(f) and M4.12-4(h) (regarding arterial improvements).

- L31 Comment noted.

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L32 Comment noted. The issue of loss of prime agricultural land, and impacts related to increased speculation and decrease in agricultural investment, were discussed in detail in the original Mountain House New Town General Plan Amendment Final EIR (March 1992) and the Final Supplemental EIR (January 1993).

L33 Comments regarding Alameda County's strong support for Mitigation Measures M4.1-2 and 4.13-2, which require a 500-foot buffer along the west side of the project, are noted. Mitigation Measure M4.1-2 has been amended to note that, if agricultural easements were placed on lands in Alameda County, the easements should be dedicated to the Alameda County Open Space Land Trust, and that the design of the buffer area should be reviewed and endorsed by a qualified, neutral third party.

Regarding the commentor's strong objections to the policies in the Draft Master Plan and Specific Plan I that would reduce the 500-foot buffer, the comments are noted.

Regarding the commentor's objections to policies in the Draft Master Plan that would allow private backyards and commercial loading zones to be included in the buffer area, the comments are noted. The commentor argues that residential accessory uses such as decks, patios, swimming pools, and children's play yards are clearly incompatible with the intent of a buffer, and that other problems related to the inclusion of privately owned lands within the buffer involve the maintenance of windrow trees and the need to regulate and preclude future additions to residences along the buffer. Mitigation Measure M4.1-2(a) has been revised to address these concerns.

L34 The comment is noted. Mitigation Measure M4.1-2(b) has been revised to address this concern.

L35 Comments regarding Alameda County's support for investigating wastewater disposal options on Alameda County lands are noted. The DEIR discusses the proposed two long-term wastewater disposal sites (on Fabian tract in San Joaquin County and in Alameda County immediately to the west of the project site) in the Project Description (page 3-33) and in Section 4.4.2, Wastewater (page 4.4-18). The FEIR cannot include more description of the exact location of the disposal site, and details regarding proposed operations and management of the reclamation site because the applicant has not yet determined which of the two sites would be chosen and bought. A map of the two proposed reclamation sites, with areas to be studied as locations for the storage ponds, is included in Figure 3.11. This figure also illustrates the proposed location of force mains.

The final decision by the applicant as to which site would be used for permanent water reclamation must be made prior to approval of the second specific plan, as required by Mitigation Measure M4.4.2-1(k). The detailed planning and engineering of the proposed reclamation area and facilities would be subject to environmental review, possibly in conjunction with review of the second specific plan.

L36 Comments noted. No revisions to the DEIR are necessary.

Alameda County Congestion Management Agency

L37 The text on page 4.12-10 of the DEIR has been revised to reflect this comment.

L38 Regarding assumptions about the timing of jobs and potential impact on traffic, see Response L26. About 44 percent of the PM peak hour trips would be internal (Table 4.12-3); this is a projection made by the County model, based on a calibrated gravity model trip distribution, and not an assumption of the model inputs, as inferred by the commentor. For Specific Plan I, 33 percent of the PM peak hour trips are projected by the model to be internal (Tables 4.12-15 and 4.12-16). Since the model does not distinguish between "new" communities and other urban areas, the projections of internal travel may be somewhat optimistic for early occupancy, but there is no evidence that they overestimate internal travel in the long range, given the assumed balance of housing and jobs.

With regard to the potential for widening Altamont Pass Road to four lanes as a multi-modal facility for either trucks or HOVs, text has been added on page 4.12-28 to briefly discuss this alternative. However, since this would, in effect, free up I-580 capacity for other vehicles, thereby increasing the overall gateway capacity, it is unclear whether such a strategy would be considered consistent with Alameda County's gateway policy (Policy 164A, as described on page 4.12-62).

L39 Comment noted regarding ongoing I-580/I-205 Interregional Transportation Corridor Study, which is intended to focus on system management strategies in the corridor. A reference to this study has been added on page 4.12-28 of the DEIR. Text has been added on page 4.12-28 of the DEIR to highlight the need to consider freeway traffic management strategies. The Draft Master Plan contains provisions for a Transportation Demand Management program (Section 10.3). Some transportation management strategies are embodied in the TDM program or are highlighted in the DEIR as mitigation measures (e.g., ramp metering).

L40 As indicated on page 4.12-14 of the DEIR, 2010 transportation assumptions are consistent with other agencies' long range financially constrained plans as of late 1993. A note has been added to that effect on page 4.12-13 of the DEIR. No other projects have been assumed in the DEIR.

Central Delta Water Agency

L41 The DEIR does not "plan" for development but rather evaluates the proposed project. The project proposed by the developer includes an option of disposing of treated wastewater on Fabian Tract. The use of Fabian Tract to dispose of treated wastewater on agricultural lands, including wastewater storage, is consistent with the County's Development Title for land within an agricultural zone. Therefore, the proposal to use Fabian Tract for disposal of wastewater does not contradict existing County planning documents.

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The Draft Master Plan does not specifically identify where wastewater treatment sludge would be ultimately disposed. Off-site sludge disposal is not anticipated to be needed until Specific Plan II, when activated sludge treatment would replace facultative lagoon treatment. The commentor's representation that sewage sludge would be disposed of on Fabian Tract is inaccurate. Federal wastewater sludge regulations would apply to future reuse or land disposal of the sludge.

The commentor identifies pathogens, metals, and salts as contaminants in the treated wastewater that may affect the land and crops grown on Fabian Tract. The Draft Master Plan and Specific Plan I propose to disinfect the treated wastewater prior to agricultural reuse. Disinfection is effective in eliminating pathogens. The DEIR identifies potential impacts associated with metals and salt in the treated wastewater on pages 4.4-22 and 4.4-23, and recommends mitigation measures on pages 4.4-23 through 4.4-27.

- L42 Section 6 of the DEIR addresses cumulative impacts associated with wastewater treatment and disposal.
- L43 The Draft Master Plan does not propose to dispose of sewage sludge on Fabian Tract. The DEIR does identify the impacts associated with irrigation of Fabian Tract with treated wastewater, including salt buildup in the soil and discharge of salt to nearby waterways. Mitigation Measures 4.4.2-1(i), (j), (l), and (m) were included to address the identified impacts. Dispersion of pathogens via air is not expected since the wastewater would be disinfected prior to storage and irrigation.
- L44 Mitigation Measure 4.4.2-5 has been revised to recommend that the wastewater treatment pond levees built within the 100-year floodplain should be built to the same standards as the main flood control levees. Since they would be newly constructed and built to flood control standards, they should withstand flooding, should the Fabian Tract levees fail.
- L45 See Response P138.
- L46 See Response P138.
- L47 See Response P138.
- L48 See Response P138.
- L49 See Response P138.
- L50 The DEIR contains extended discussion on the potential impacts of disposal of wastewater on Fabian Tract. Relatively little discussion was provided for the Alameda County disposal site alternative. This reflects the fact that there are more potential impacts with wastewater

disposal on Fabian Tract than in the Alameda County foothills. Disposal in Alameda County is one of the alternatives listed in the Draft Master Plan.

- L51 The DEIR describes on-site wastewater disposal options on page 4.4-20. The DEIR authors agree that on-site disposal is an option, as recommended in Mitigation Measures 4.4.2-1(n), (o), and (p). However, on-site reclamation would not be sufficient for disposal of all the wastewater from the project; hence the need for off-site disposal.
- L52 The DEIR describes the concerns expressed in this comment, which is why Mitigation Measures 4.4.2-1(i), (l), and (m) have been recommended.

Contra Costa County Community Development Department

- L53 Comment noted. The DEIR has analyzed the jobs/housing monitoring program outlined in the Draft Master Plan and recommended revisions to it.
- L54 The DEIR includes a lengthy analysis of the Jobs/Housing Program outlined in the Draft Master Plan and recommends revisions to it. Mitigation Measure M4.9-1(b) recommends the specific issues or criteria that should be considered by the County during annual monitoring review of the project's Jobs/Housing Program. If specific numeric goals for the jobs/housing program were not being met, the Mitigation Measure recommends that the County continue to process residential permit applications according to revised jobs/housing goals; that certain other actions be taken by the developer to increase job creation; or that approvals of further residential development be restricted. The intent of the Mitigation Measure is not to recommend that residential development be interrupted, rather the intent is that additional residential approvals could be restricted until job creation and construction of already approved subdivisions could catch up with each other. If residential construction were to be interrupted for other reasons (e.g., lack of market demand), then the provision of critical public services and infrastructure may be delayed. The fiscal and financial impacts of a reduced residential absorption rate have not been studied in the DEIR because economic issues are not required to be analyzed under the California Environmental Quality Act. However, High and Low Growth scenarios for the project were analyzed for fiscal and financial impacts in the Mountain House Draft Public Financing Report (Taussig and Associates, 1994). The report's findings are summarized in Response L15.
- L55 The Draft Master Plan requires that public utilities and infrastructure data be collected as part of the annual community monitoring program, and that an annual fiscal status report be prepared and submitted to the County. A policy in the Draft Master Plan specifically notes that "Depending upon the results of the monitoring, adjustments can be made in service delivery, fees and charges, and/or use of other financing mechanisms" (Policy 3.10.3(b), page 3.66). In addition, the enforcement portion of the annual jobs/housing monitoring program in the Draft Master Plan includes criteria that require the County to consider "the financial effects that discontinued or interrupted residential development will have on Community Services

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District operations, and public financing districts in the community" (Implementation e) under Jobs/Housing Program, page 3.54, and Mitigation Measure M4.9-1(b)).

As already noted in Responses L15 and L54, the DEIR has not analyzed fiscal and financial impacts related to the project, including financial issues related to the provision of public services. The Mountain House Draft Public Financing Report (Taussig and Associates, 1994) does analyze these issues on a year-by-year basis for a High Growth and Low Growth buildout scenario. That document does not identify any potential funding shortfalls for either of the development schedules, although the analysis indicates a negative fiscal impact to the County General Fund for the initial years of both the Low Growth and High Growth development schedules.

- L56 The commentor has suggested specific text revisions to the enforcement portion of the Jobs/Housing Monitoring Program (Mitigation Measure M4.9-1(b)). Regarding changes to the type of statistics that are gathered and analyzed during the annual monitoring program, Mitigation Measure M4.9-1(b) has been amended to include the suggestions.

The commentor's suggestion of revised text to allow for the enactment of a moratorium on residential development until jobs/housing goals are met has not been incorporated into the FEIR because it would not reduce identified impacts. However, Mitigation Measure M4.9-1(b) has been amended to allow the County to restrict further approvals of residential development if jobs/housing and affordable housing goals have not been achieved.

- L57 Comment noted. The commentor notes that the projected rate (percentage) of the project's internal trip generation would be feasible if there are policy assurances for an appropriate match between jobs and housing income levels. The Draft Master Plan includes comprehensive Jobs/Housing and Affordable Housing programs that address this match. Also see Mitigation Measures M4.9-1, M4.9-2, and M4.12-1.

- L58 Comment noted. The commentor should communicate Contra Costa County's request to have the annual monitoring reports for the project sent to adjacent jurisdictions to the San Joaquin County Community Development Department. The DEIR has not been amended to recommend this, as it is an administrative detail, not an environmental impact.

- L59 The DEIR identifies projected impacts on I-580 and on parallel arterial facilities to and from the Tri-Valley and east Contra Costa County areas. These impacts, in terms of daily volumes, are shown in Figure 4.12-7 on page 4.12-22 (freeways) and Figure 4.12-8 on page 4.12-36 (arterials). Projected impacts on peak hour volumes are shown in Tables 4.12-6 and 4.12-10 for freeways and arterials, respectively.

Additional analysis has been performed to project future freeway and arterial volumes assuming that I-205 is widened to only six lanes, not eight lanes, by 2010. These volumes are included in Tables 4.12-6A, 4.12-6B, 4.12-11A, and 4.12-11B in the DEIR. All of these

projected volumes with and without the project are based on the San Joaquin County model, which explicitly models travel between San Joaquin County and the Tri-Valley and east Contra Costa County, including potential shifts between freeway and non-freeway routes. These potential shifts are included in the projections shown in the DEIR. On pages 4.12-25 through 4.12-28, the DEIR also contains a detailed discussion of potential peak period spreading and further shifts of traffic due to the high levels of congestion projected on I-580.

- L60 Mitigation Measure M4.12-4 includes provisions for safety and operational improvements in lieu of general roadway widening. These improvements could include passing lanes, roadway realignment, intersection turn lanes, shoulder widening, and the like. Downsizing of the project was not proposed as a mitigation measure for the reasons cited on page 4.12-19 of the DEIR; even with substantial downsizing or complete removal of the project, adverse traffic operating conditions are projected since other non-project trips would replace project trips along the I-580 corridor.
- L61 The trip generation rates used in the San Joaquin County travel model, upon which the traffic projections are based, are inclusive of all vehicles including trucks. The model also projects diversion of traffic due to congestion effects on parallel facilities through use of capacity-restraint traffic assignment procedures.

Comment noted regarding percentage of Byron Road traffic projected to originate at Mountain House. Consideration of whether a grade separation is needed to accommodate future traffic at the SPRR/Byron Highway crossing should be included in the evaluation of roadway improvements recommended in Mitigation Measure M4.12-4. Considerations for railroad grade separations may also consider other factors besides traffic levels, such as amount of railroad activity and accident experience, and other sources of funding through the California PUC.

- L62 Mitigation Measure M4.12-5(j) on page 4.12-48 of the DEIR has been modified for clarity.
- L63 Impact S4.12-2 on page 4.12-57 of the DEIR has been revised to clarify that current policy (Alameda County Policy 164A, as described on page 4.12-62) limits widening of I-580.
- L64 Comment noted. A new Mitigation Measure M4.12-1(j) has been added to the DEIR, recommending construction of one or more telecommuting centers within the project site.
- L65 Comment noted. The Draft Master Plan contains a policy that new residents be given free transit passes for the first three months. This comment does not relate to the DEIR. However, it is not expected that this provision would represent a significant portion of an overall transit system operating budget.

Contra Costa Water District

- L66 The footnote on page 4.4-22 of the DEIR summarizes the findings from a hydraulic and water quality assessment of a potential treated wastewater discharge to Old River from the project.

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The assessment is documented in a report contained in Appendix 10.12 of the FEIR on the Mountain House, New Town General Amendment (1993). The modeling completed as part of the assessment calculated the maximum incremental increase in total dissolved solids in Old River north of Victoria Canal to be 0.14 mg/L under the scenarios associated with a treated wastewater discharge to Old River. Victoria Canal is more than eight miles south of Rock Slough on Old River. It should be noted, however, that proposed changes in the south Delta, currently being evaluated, would change the flow conditions near the project. Potential impacts from wastewater discharge from the project would depend on the chosen modifications and actual operations of the facilities.

The DEIR does not quantitatively address pollutant loading associated with storm water runoff from the project because storm water quality is highly variable and unpredictable. Storm water quality is dependent on actual land uses, community awareness, and best management practices (e.g., detention ponds, street sweeping, inspections). The current regulatory focus on minimizing the pollutants discharged via storm water in an urban area pertains to implementation of best management practices. The Draft Master Plan contains best management practices for controlling storm water quality. As development proceeds, the amount of pollutants associated with agricultural practices (e.g., insecticides, fertilizers) discharged from the project would decrease.

The DEIR describes the State and Federal agencies' efforts to adopt a water quality control plan for the Delta. Water diversions from and wastewater discharges into the Delta would be regulated to comply with the water quality control plan. The plan is intended to protect the beneficial uses of the water in the Delta. One of the beneficial uses that would be protected is municipal and industrial supply; therefore it is appropriate to assume that adherence to discharge requirements would protect municipal and industrial users within the Delta.

L67 As proposed, the project would not increase water diversion from the Delta. The majority of the water would be provided by BBID. The volume of water diverted by BBID that would be used by the project is the average volume historically diverted to supply irrigation water for the land within the project site. Therefore, BBID would not be diverting more water for the project. The exchange agreement between BBID and the DWR would allow BBID to withdraw water during the winter months, when DWR would not withdraw an equivalent volume of water. The opposite arrangement would occur during the non-winter months. Therefore, the exchange agreement would not result in an increased diversion volume. And, finally, the volume of water that may be used for the project under riparian water rights associated with the land between Byron Road and Old River has historically been withdrawn to irrigate that agricultural land. Again, the use of this water associated with riparian rights would not result in an increased diversion.

L68 As noted by the commentor, winter-run chinook salmon was not identified as one of the fish taxa of concern in the DEIR that could be affected by the proposed project. The winter-run chinook salmon (*Oncorhynchus tshawytscha*) is listed as endangered under the Federal

Endangered Species Act, occurring in open water of the Delta and tributary rivers and streams, which may include the Old River system, which borders the project site during migration periods. Any development along Old River associated with the project, particularly the proposed marina, could adversely affect migrating salmon or other fish taxa of concern. Mitigation Measures M4.11-4 and M4.11-7 were recommended to identify, and as necessary protect, any aquatic species associated with Old River that could be adversely affected by the project. In response to this comment, Table 4.11-1 on page 4.11-8, the discussion of populations of taxa of concern along Old River on page 4.11-40, and Mitigation Measure M4.11-4 on pages 4.11-40 and 4.11-41 of the DEIR have been revised to include winter-run chinook salmon as an additional fish taxa of concern.

Raw water would be pumped from the California Aqueduct and treated as the primary source of potable water for the project. The proposed intake point for water along the aqueduct is located downstream from the Skinner Fish Protection Facility, which is intended to prevent movement of fish and other aquatic species from the Delta into the aqueduct. The California Department of Water Resources is required to account and mitigate for fisheries losses at the facility. For regulatory and resource management purposes, any entrainment losses at the Skinner Facility are considered an impact of State Water Project operations on Delta fisheries, not the subsequent downstream diversions or specific project use of water from the aqueduct, including the intake proposed as part of the project, and no additional mitigation is considered necessary.

San Joaquin County Department of Parks and Recreation

- L69 The text of the DEIR has been changed on Page 4.3-4 in response to this comment.
- L70 The EIR consultants understand that there are currently no plans for in-lieu fees; however, construction of the project could span more than 20 years. The referenced mitigation measure provides the County with flexibility in achieving adequate regional park facilities.
- L71 The referenced mitigation measure is recommended as one option for mitigating the lack of on-site regional park facilities and the associated increased demand on East Bay Regional Park District lands. In response to this comment, the DEIR text on page 4.3-5 has been changed to indicate that discussions between the County and EBRPD should be initiated to reach a reciprocity agreement regarding potential impacts to parks within the jurisdictions of the District and the County.
- L72 This mitigation has been provided in Mitigation Measure M4.3.1-1. Comment noted.
- L73 The DEIR has been revised in response to this comment on page 4.3-4.
- L74 These comments do not pertain to the adequacy of the DEIR. Comments noted.
- L75 Comment noted.

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Stockton-San Joaquin County Public Library

L76 The DEIR text has been expanded on page 4.3-26 to include information on the current population estimates for the Tracy Library Service area. The other comments are noted.

Tracy Joint Union High School District and Lammersville Elementary School District

L77 The DEIR has been changed on pages 4.3-8 and 4.3-10 to accommodate this comment.

L78 Comment noted.

L79 Comment noted.

L80 The typographical error in the DEIR has been corrected. The correct reference should be Mitigation Measure 4.10-1.

L81 The typographical error in the DEIR has been corrected. The correct reference should be Mitigation Measure 4.11-1.

L82 Comment noted.

L83 The District should contact San Joaquin County to determine the procedures for reviewing the desired documents. Those documents are not part of the DEIR.

L84 The project includes the preparation of a school facilities plan, to be prepared prior to the submittal of the first development permit for this project; this plan would contain descriptions of funding mechanisms.

Office of the County Counsel, San Joaquin County

L85 A paragraph is added to the top of page 4.4-11 of the DEIR describing the findings of the County Counsel; Mitigation Measure M4.4.1-3(c) in the DEIR has been deleted.

San Joaquin Valley Unified Air Pollution Control District

L86 Comment noted.

L87 Regarding a proposed fee system to mitigate air quality impacts, see Response P67. The project would be developed under a comprehensive program of mitigation covering all phases of the Mountain House development.

Of the mitigation measures/strategies listed, all but two are addressed in the Draft Master Plan Chapter 8 (Energy and Telecommunications), Chapter 9 (Transportation and Circulation) or Chapter 10 (Air Quality and Transportation Management). The two measures not currently addressed in the Draft Master Plan or DEIR are:

- Provide electrical lawn mowers and associated equipment with each residence, and
- Allow for retirement of pre-1974 vehicles to offset the emissions from project development.

The first of these two is considered to be ineffective given the other incentives already proposed for use of electrical maintenance equipment. The second measure would be an appropriate strategy for a regional program of mitigation, such as that proposed in Mitigation Measure M4.13-1, but is impractical for a single project.

San Joaquin County Department of Public Works

- L88 It would not be appropriate to combine Mitigation Measure M4.4.1-1(b) and (c) into M.4.4.1-1(a) because the former two mitigation measures [(b) and (c)] specifically address raw water storage considerations that pertain to Objective 8 in Potable Water Supply in the Draft Master Plan, and the latter measure [(a)] addresses adequate water supply that pertains to Objective 1 in Potable Water Supply in the Draft Master Plan.
- L89 The reason "other water sources" was deleted from Implementation a) under Objective 1 in Potable Water Supply in the Draft Master Plan was that "other water sources" have not been identified in the Draft Master Plan and therefore the DEIR has not evaluated potential other water sources.
- L90 Mitigation Measure M4.4.1-4 of the DEIR has been revised to recommend that the water treatment plant shall be operational prior to the approval of the first final subdivision map.
- L91 As noted on page 4.12-12 of the DEIR, the DEIR does not evaluate the adequacy of the trigger points. Rather, the DEIR focuses on the full buildout of the Draft Master Plan and two buildout scenarios for Specific Plan I, which is generally the worst-case conditions for transportation impacts of a project. However, Mitigation Measure M4.12-3 on page 4.12-33 of the DEIR provides for County review and revision of the trigger points listed in the Draft Master Plan prior to approval of the first Development Permit. This may or may not involve additional San Joaquin County model applications to test intermediate years of development. Once the trigger points have been initially reviewed and approved by the County, the proposed annual Transportation Monitoring Program (Mitigation Measure M4.12-1(i)) provides an opportunity to further revise the trigger points in response to the actual traffic conditions that are observed in the future.
- L92 Section 9.1.3 of the Draft Master Plan indicates that each Specific Plan will determine additional on- and off-site improvements needed to accommodate the Specific Plan.
- L93 Traffic projections have not been reported in the DEIR for these low-volume rural roads because they typically serve local traffic, which is difficult to model accurately on a countywide travel model. The travel model projections do not indicate the need for widening

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any local roads beyond two lanes with or without the project, with 2010 traffic volumes typically being under 2,000 daily vehicles. However, there are several road segments where higher volumes (2,000 to 10,000 daily vehicles) are projected and/or where the Project would potentially increase traffic significantly over traffic levels without the Project. These traffic increases could affect roadway maintenance and safety conditions, particularly if the added traffic includes a large proportion of trucks. These segments include Bethany Road, Kelso Road, Hansen Road, Van Sosten Road, Reeve Road, and Middle Road. Mitigation Measure M4.12-4(d) addresses fair share contributions to safety/pavement improvements on such routes. The text on page 4.12-42 of the DEIR has been expanded to discuss these routes, and Mitigation Measure M4.12-4(d) has been revised to cite specific rural roads impacted.

- L94 Text on page 4.12-31 has been modified to reference "eligible projects" for TIMF fee credit, removing the specific reference to I-580, which is not currently on the TIMF list of eligible projects.

San Joaquin County Flood Control & Water Conservation District

- L95 Mitigation Measure M4.4.2-5 on page 4.4-31 of the DEIR has been revised to incorporate the comment.
- L96 The text of the DEIR has been amended on page 4.10-10 in response to this comment.
- L97 This comment does not pertain to the impact analysis. The project proposes conveyance of 100-year flood waters on the project site and discharges into Old River. The evaluation of on-site flooding hazards take into account flood waters entering the site from upstream and off-site sources.
- L98 The fencing discussed in Implementation e) for Objective 5 of Biological Resources pertains to installation of temporary fencing to protect wetlands and buffer areas during construction, and installation of permanent barriers and/or fencing to preclude long-term damage from unauthorized vehicle access to sensitive habitat. Fencing identified in the implementation measure would extend around not across wetlands and drainages, such as Mountain House Creek, and should not result in obstruction of flows in drainages. Since no fencing would extend across Mountain House Creek or other drainages, no change to the implementation is considered necessary.
- L99 The comment addresses the concern that the language in the Draft Master Plan regarding stream bed stabilization restricts stabilization to protection by vegetation. We agree that the cited examples of implementations could be improved but do not consider that significant environmental impacts would result from the existing implementations. Provisions of the Draft Master Plan address the possible use of structural measures for erosion control. The channel design for Mountain House Creek would be required to meet maximum allowable average velocity for stream flow. Implementation a) under Objective 3 in Mountain House Creek Improvements includes provisions for drop and check structures to reduce channel bed slope

and stream bank stabilization, which include structural measures and natural vegetation. Stream bed modification proposals would be submitted for each Specific Plan proposing such modifications.

- L100 The commentor is commenting on the Draft Master Plan language, as contained in Appendix C of the DEIR. The Draft Master Plan proposes the use of non-chemical practices to control vole and gopher populations and standard agricultural rodent control measures to control mice and squirrels. The DEIR has not made recommendations that would preclude the use of rodenticides. In Mitigation Measure 4.11-3 on page 4.11-38, paragraph 2 of the DEIR, it is recommended that Implementation h) for Objective 1 in the Biological Resources Management of the Draft Master Plan be revised so that rodenticides shall only be applied when small mammals pose a serious threat to agricultural crops. The DEIR does not indicate that rodenticides shall not be allowed on the site. No change in the DEIR text has been made in response to this comment.
- L101 The referenced Mitigation Measure 4.10-1(a) pertains to the application of pesticides and herbicides on agricultural fields and does not pertain to drainage facilities. It should be noted that application of herbicides and rodenticides along drainage facilities and flood control channels (i.e., the Mountain House Creek corridor) in accordance with current practices would not meet the objective of the habitat restoration programs for the Mountain House Creek corridor; it is proposed that the corridor would provide enhanced riparian habitat for wildlife while at the same time providing for flood control. It is also recognized that management procedures may necessitate limited use of herbicides and rodenticides. No change in the DEIR text has been made in response to this comment.
- L102 The Federal Emergency Management Agency will require the development of the maintenance program prior to issuance of a Letter of Map Revision. The program would be required to address vegetation maintenance and could include conformance with the "Levee Encroachment Guide for Vegetation on Project Levees." When the review process is appropriately followed, the issues raised by the comment would be reduced.
- L103 This comment does not pertain to the impact analysis in the DEIR. Comment noted.
- L104 Impact M4.7-6 and Mitigation Measure M4.7-5 have been added to the DEIR on page 4.7-11 to address this comment.
- L105 The design of the "flow reduction" lower reach of the Creek has not been completed. The proposed design, as described in the cited Implementation, would be a deepened and widened channel/basin. The upstream reaches of the Creek that include a floodplain would transition to this widened reach. The commentor is correct that this reach of the Creek, from bank to bank, could be subject to permits by California Department of Fish and Game and the U.S. Army Corps of Engineers.

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The DEIR projected future traffic volumes on Mountain House Road, just south of Kelso Road. Figure 4.12-8 and Table 4.12-10 in the DEIR indicate that the projected total daily traffic in the year 2010 with full buildout of the project would be 8,300 vehicles on Mountain House Road, just south of Kelso Road. The projected volume on Mountain House Road, without the project, is 7,700 vehicles daily. The projected 2010 peak hour traffic at the same location, with the project and cumulative growth, would be 540 to 550 vehicles. This amount of traffic can be easily served by the existing two lane road (Table 4.12-10).

- L126 Mitigation Measure M4.12-4(a) recommends that the project participate in appropriate traffic studies and improvement measures with other counties and cities whose roadways are impacted by the new community. The mitigation measure specifically notes the need to study Altamont Pass Road and Byron Road in Alameda County. The transportation improvements identified in the Draft Master Plan include plans by the applicant to widen the portion of Grant Line Road in Alameda County. There are no plans to improve Mountain House Road because the DEIR has not identified any significant impacts to that road (see Response L125 above). Regarding Kelso Road impacts, see Response L125.
- L127 The DEIR has not attempted to speculate about construction-related traffic. It is very difficult, if not impossible, to forecast where construction traffic, both autos and trucks, will travel from to reach the project site. The DEIR text in Footnote 11 on page 4.12-28 has been revised to note that the traffic projections did not account for construction traffic. A paragraph has been added to the DEIR text on page 4.12-34, repeating that the projected traffic volumes for County roads do not include the impacts of construction traffic. The revised text also indicates that because significant mineral deposits are located in the south Tracy area (south of the I-580/Corral Hollow Interchange), and several mining companies in that area provide building materials such as aggregate, it is assumed that a portion of the heavy truck trips supplying construction materials to the site may use routes such as the I-580 freeway and County roads such as Patterson Pass Road. A Mitigation Measure has been added under M4.12-4 requiring that the community submit a Construction Truck Traffic Management Plan to the County identifying the preferred truck routes with a plan to ensure compliance with the designated routes.
- L128 The Draft Master Plan and the DEIR both identify the Marina Boulevard/Grant Line Road intersection as requiring signalization and channelization at project buildout. The Draft Master Plan states that monitoring of intersections within and immediately adjacent to the site for signal warrants shall be required on an annual basis. Signal warrant studies have not been specifically called out for the other intersections in Alameda County but would be part of any evaluation and fair share funding of improvements on roads impacted by the project, as provided for in Mitigation Measure M4.12-4(a) and related Draft Master Plan policies.
- L129 Table 9.2 in the Draft Master Plan includes County arterials proposed for widening, not for non-widening improvements. Safety and operational improvements to Altamont Pass Road have not been quantified in the DEIR. Mitigation Measure M4.12-4(a) addresses the issue by

requiring that the project participate in appropriate traffic studies and improvement measures for Altamont Pass Road.

L130 Mitigation Measure M4.12-1(i) requires the applicant to develop a Transportation Monitoring Program that would review actual traffic generated by the project on an annual basis, and would allow revision to mitigation measures and trigger points for needed improvements.

L131 Comment noted. The title to Table 4.12-19 has been corrected.

Contra Costa County Public Works Department

L132 It is true that the DEIR did not analyze the adequacy of the trigger points. However, Mitigation Measure M4.12-1(i) addresses the issue by requiring the applicant to develop a Transportation Monitoring Program that would review actual traffic generated by the project on an annual basis, and would allow revision to mitigation measures and trigger points for needed improvements. Also refer to Response L91.

L133 The comments are directed at the project's Draft Public Financing Report, not the DEIR. The Mountain House Draft Public Financing Report includes detailed cost estimates for infrastructure. The cost estimates assume dedication of street rights-of-way. A 35 to 50 percent contingency has been added to most transportation facility cost estimates to cover engineering, design, plan check, inspection, and soft costs and contingencies. It is correct that the Draft Public Financing Report does not include references to Contra Costa County and Alameda County road standards.

L134 The text of Mitigation Measure M 4.12-1(i) on page 4.12-21 of the DEIR has been modified to include locations in adjacent counties for monitoring of traffic impacts. It is not necessary to specify the exact criteria to be used in the traffic monitoring, as the methodology will be routinely evaluated and updated by the County as needed.

L135 The traffic modeling completed for the DEIR analysis assumed that the two-lane Delta Expressway (now called the SR 4 Bypass) would be completed from Antioch to south of Brentwood by the year 2010, with a Marsh Creek Road connection between the new bypass and the old SR 4 roadway. This assumption is consistent with the Contra Costa County Congestion Management Program's Capital Improvements Program. The two lane construction is Phase I of the SR 4 Bypass project. The 2010 traffic projections generated by the San Joaquin County multi-county travel demand model indicate 4,800 daily vehicles, originating from the project, on Byron Road at the Alameda County line, leading to the SR 4 Bypass (Table 4.12-9) (throughout the day, an equal number of vehicles would be destined for the project site).

Some portion of the project trips would continue on to use the SR 4 Bypass, but the added trips to the Bypass would not represent a significant environmental impact because they would largely replace trips that would otherwise use the Bypass in the absence of the project. As

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noted in the DEIR, this replacement of trips would occur because it is assumed that the same number of trips would be generated in eastern Contra Costa County with or without the Mountain House project. It should be further noted that the project represents only a small portion of the total growth projected in San Joaquin County by the year 2010. Consequently, much of the traffic growth on Byron Highway and other eastern Contra Costa County routes would occur even if the project were not developed.

L136 Refer to Response L127.

L137 Refer to Response L127.

San Joaquin County Council of Governments

L138 Comment noted.

L139 In response to the comment that the transportation modeling for the project should be consistent with the recently adopted Council of Governments' Regional Transportation Plan, a new model run has been prepared. The additional model run provides a "sensitivity" test to determine if the projected volumes and distribution of project and cumulative growth traffic would be significantly different if the I-205 freeway was assumed to be six lanes by the year 2010, instead of the previously assumed eight lanes. The analysis indicates that freeway volume reductions on I-205 and I-5 north of I-205 of as much as 7,200 daily vehicles are projected with the narrower width, representing up to five percent less daily traffic in 2010. Volumes on the Middle/Arbor/Stanford route paralleling I-205 are projected to increase by up to about 7,000 daily vehicles. Other routes would have only minor impacts. Peak hour levels of service would be adversely impacted on I-205, typically deteriorating from LOS D to LOS F, and on the Middle/Arbor/Stanford route east of Tracy Boulevard, with projected LOS F conditions being exacerbated with the narrower width on I-205. Other LOS impacts are not projected to be significant.

Additional text has been included in the Transportation section of the DEIR that summarizes the results of the model run (pages 4.12-29 and 4-12-43). Mitigation Measure 4.12-2 has been modified to require a fair share contribution from the project for a parallel east-west roadway system north of I-205, as an alternative to widening I-205 to eight lanes.

PRIVATE INDIVIDUALS AND ORGANIZATIONS

Baker & McKenzie, Attorneys at Law for Trimark Communities

P1 The comments are noted. San Joaquin County has not adopted a countywide agricultural mitigation fee program, although the County General Plan 2010 contains an implementation measure that calls for studying the feasibility of such an agricultural mitigation fee (Implementation 3(e) under Agricultural Lands, page VI-14). A per-acre agricultural mitigation fee will only be applied to the project if a countywide program that applies to all urban

development in the unincorporated areas is adopted. The requirement that the Master Developer pay a fee if it is adopted in the future by the County is recommended for inclusion in the Development Agreement. The intent is that the Master Developer will pay the per-acre mitigation fee, if it is established by the County, and that other home builders or developers who purchase land from the Master Developer will either reimburse the Master Developer or will pay the fee when subdividing the land, under a similar provision inserted into Development Agreements signed between the other developers and the County.

- P2 Both this DEIR and the previous EIRs for the project have documented the need for a buffer along the western edge of the community to mitigate for potentially significant land use conflicts. These potential land use conflicts involve noise, dust, and aerial spraying generated by normal agricultural operations in the area, and trespass, vandalism, and other nuisance complaints directed at agricultural operators from adjacent urban residents. The commentor correctly notes that a major concern along the western edge of the new community is potential impacts on adjacent residences and businesses from aerial spraying operations, especially because of the strong prevailing winds that can carry pesticides, herbicides and other chemical from agricultural lands in Alameda County eastward onto the project site.

The DEIR does not dwell on the specific farming activities adjacent to the western edge, except to note the general crop types and the normal spraying activities. Because crops are routinely rotated from year to year, it would not be helpful to vary the size of the buffer strip according to the specific crop types that were documented in 1994, since they may change during the next growing season. Additionally, lands that are now dry farmed may be irrigated in the future during the long buildout period of the project, and vice versa.

The San Joaquin County General Plan 2010 includes objectives, policies, and implementation measures that address the need to mitigate potential agricultural/urban land use conflicts or to consider buffers as a mitigation. One of the three Objectives of the Agricultural Lands section of the General Plan is "To minimize the impact on agriculture in the transition of agricultural areas to urban development" (Objective 3, page VI-10). A policy states that "Non-agricultural land uses at the edge of agricultural areas shall incorporate adequate buffers (e.g., fences and setbacks) to prevent conflicts with adjoining agricultural operations" (Policy 10, page VI-13). An implementation measure notes that "The County shall conduct a study to identify appropriate buffers between agricultural operations and non-agricultural land uses to prevent land use conflicts" (Implementation 7, page VI-15).

The commentor argues that the DEIR preparers' standard of significance for land use impacts is excessive because potential impacts related to agricultural noise, spraying, or dust are singular or occasional events. However, San Joaquin County has determined, through the adoption of the above-cited General Plan policies and other adopted regulations (such as the Right-to-Farm Ordinance) that urban/rural conflicts are a potential significant problem in the County, and that "Agriculture shall be protected from nuisance complaints from non-agricultural land uses by appropriate regulatory and land use planning mechanisms" (see

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The commentor calculates that, even without the Mountain House Business Park, more than an adequate amount of industrial/commercial land is available to reach the jobs/housing goals for the early years of Specific Plan I. However, the calculation of all jobs provided by the commentor fails to distinguish whether there is enough land available to create the different types of industrial and commercial activities that are anticipated under the High Growth absorption schedule.

If the Mountain House Business Park were not developed during the initial years of Specific Plan I because a large enough user were not found to "front-end" the substantial cost of extending infrastructure to the site, then the only other locations available for light industrial/business park job creation would be the 37.5 acres along Patterson Pass Road in the Central Mountain House subarea, which could generate approximately 1,200 jobs (at 32.3 jobs/acre). All of the other industrial areas designated in Specific Plan I are reserved for "lower end" light industrial (non-business park) and heavy/general industrial uses.

The commentor correctly notes that large users who would occupy all or a portion of the Mountain House Business Park would probably not be slowed down in the permitting process because infrastructure has not already been extended to the site. While the DEIR preparers are concerned that the Business Park may not be developed until after the year 2010, the issue does not rise to the level of significant environmental impact. The last portion of the Mitigation Measure S4.1-1(b) is deleted.

The reference to Central Mountain House in the first paragraph under Impact S4.1-1 refers to the housing planned in the subarea, not the commercial/industrial uses. The text has been clarified to make this distinction.

- P5 The commentor suggests that there would be sufficient land in Specific Plan I, without the Mountain House Business Park, to meet the employment targets by the buildout of housing in Specific Plan I (end of year 7), and that it is not necessary to include the Business Park in the initial Community Services District boundary. However, based upon a calculation of the number of jobs that could be anticipated without the Business Park, the "best case" jobs/housing goal could not be reached. If the Business Park were not included in the initial CSD, there could be a lack of high quality light industrial land available for development.

As already noted above in Response P4, there are only two locations in Specific Plan I where business park uses (zoned I-P) are proposed: 37.5 acres of land along the Patterson Pass Road in the Central Mountain House subarea, and 71 acres in the Mountain House Business Park. The High Growth absorption schedule included in Specific Plan I anticipates the absorption of about 26 acres of business park land by the end of the fourth year of construction, and another 26 acres by the end of the sixth year. Thus, if the Business Park were not developed within the first three to ten years of Specific Plan I, as the commentor implies, then the High Growth absorption schedule may not be met by the milestone of 4,100 residential units and, consequently, the jobs/housing goal for Specific Plan I may not be reached by year 7.

If only 37.5 acres of business park development occurs by the end of Specific Plan I, then the total number of "basic," non-local serving jobs that could be expected under the optimistic High Growth schedule would be approximately 1,780. To reach the "best" jobs/housing goal of 0.79 by full residential buildout of Specific Plan I (end of Year 7), the applicant has estimated that 2,236 basic jobs would need to be created on-site (Table 3.7 in the Draft Master Plan). To reach the "minimum" jobs/housing goal of 0.70, approximately 1,750 basic jobs would be required, which could be reached if all of the 37.5 acres of business park uses along Patterson Pass Road were developed at the expected high densities and if all the other heavy industrial and office commercial uses that generate basic jobs were absorbed according to the High Growth schedule. If some portion of the other lands that are expected to be developed by the end of year 7 does not occur, then the project could fail to reach the "minimum" jobs/housing ratio goal.

While the job creation goals for high quality business park uses may be affected if the Mountain House Business Park is not developed during Specific Plan I, the commentor is correct in noting that the area can be readily annexed into the Community Services District when there is a market demand for the uses. The DEIR preparers concur that the issue of whether the business park is included in the initial CSD boundaries does not rise to the level of environmental significance. Impact and Mitigation Measure S4.1-2 have been deleted.

- P6 The commentor notes that "All funding mechanisms proposed to be used for financing services or facilities can be structured to assure that agricultural lands controlled by the landowners other than the Master Developer are not subject to added financial burden." Mitigation Measure S4.1-3 has been revised to require that the Draft Specific Plan I incorporate this language as a policy.
- P7 The commentor states that potential land use impacts between new residential uses and adjacent agricultural activities will be generally very short-term, and for that reason such conflicts are not significant. The DEIR preparers cannot make this judgment, since environmentally significant land use conflicts, even if they exist for only a brief period, cannot be automatically dismissed as "insignificant" under the California Environmental Quality Act.
- P8 The comments are noted. The commentor states that any inconsistencies between policies in the Draft Master and specific plans and the County General Plan 2010 or Development Title "should be resolved by amending the General Plan to provide provisions specific to Mountain House, not by changing the Master Plan/Land Use Plan." This is one of the alternatives recommended under Mitigation Measure M4.2-1. No changes are required.

The DEIR preparers do not agree with the commentor's statements regarding the need not to address policy inconsistencies between the regional park policies and wildlife protection programs in the Draft Master Plan, with adopted policies of the County General Plan 2010. Regarding the potential inconsistencies between proposed densities of the proposed R/M residential designations and County General Plan densities, County staff does not disagree with

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- the need to define the R/M as 5.5 du/acres for the project. Mitigation Measure M4.2-1 has been modified.
- P9 The comments are noted. See Response P8 above. While the different noise measurement methodology recommended by the commentor may be appropriate, there is still a need to resolve the inconsistency in methodologies proposed in the Draft Master and Draft Specific plans with the differing standards of measurement in the County General Plan 2010 or Development Title.
- P10 Objective 1 under Recreation in the San Joaquin County General Plan states that the County will " ..Serve the recreational needs of the County population by providing regional and local parks and recreational facilities." The General Plan policies include that "The criteria outlined in Table IV-5 shall be used for the development of parks"; the criteria in Table IV-5 of the General Plan lists 10 acres of regional parks per 1,000 population. Implementation measures to achieve the objectives and policies of the General Plan include: "The County shall promote donations of land for recreation." The DEIR identified the lack of regional park land in the amount of ten acres per 1,000 population as a deficiency of the proposed project based on General Plan objectives, policies, and implementations. Identification of regional park deficiencies for the first residents as a significant impact is based on professional judgment of the DEIR preparers as well as an extension to regional parks of Policy 4 in the General Plan, which states that where a local park is designated on the General Plan 2010 Map, recreation development should begin when an operational authority is designated. Since the proposed project is dissimilar to urban development in the County by virtue of creating a new community, it appears reasonable to extend the timing for local parks to regional parks for this project. No changes to the DEIR have been made in response to this comment.
- P11 Refer to Response P10.
- P12 The text has been amended on page 4.3-6 to more clearly provide a nexus between the timing of habitat restoration and park development. The mitigation measure has not been changed.
- P13 Impact M4.3.2-1 and the associated mitigation measure has been revised to more clearly state the actual impact and to identify the option of reduction in the number of students at each school, should the actual student generation rates differ from those assumed in this DEIR. The DEIR text has also been amended to indicate that the number of schools shall not be changed.
- P14 The DEIR does not state that proposed school sites are located in "hazardous areas." Rather, the DEIR states that the presence of certain utility lines and a former landfill could present health risks to students. The comment does not require a change in the text of the DEIR.
- P15 It is the commentor's opinion that the discrepancy between the Draft Master Plan and Draft Specific Plan I is "minor." The text of the DEIR has been changed in response to this

comment, indicating that a School Facilities Plan has to have been approved by the State and the school district(s) prior to submittal of the first development permit.

P16 The DEIR text has been expanded on page 4.3-25 to more specifically identify the requirements for the Specific Plan I regarding compliance with Draft Master Plan implementation measures. In this case, Draft Specific Plan I needs to include alternative sites for on-site waste management, as required by the Draft Master Plan mitigation measure.

P17 Comment noted. The DEIR has not been revised in response to this comment. The Draft Master Plan specifies that a waste management site be identified in Specific Plan I.

P18 Since water use at Specific Plan I buildout is expected to be approximately one-quarter of that used at project buildout, the DEIR preparers agree that it would be more useful to evaluate the adequacy of the water supply in light of any restrictions on water diversion by BBID or DWR in Specific Plan II and subsequent specific plans. Mitigation Measure 4.4.1-1(a) has been revised to require a review of the water supply in Specific Plan II and subsequent specific plans.

P19 Mitigation Measure 4.4.1-2(a) in the DEIR recommended a minor revision to the corresponding paragraph in the Draft Master Plan. The main revision deleted a clause, "or other water sources," from the paragraph in the Draft Master Plan. This was deleted because "other water sources" have not been identified in the Draft Master Plan and therefore have not received environmental review. The commentator's question of what was meant by this paragraph should be referred to the authors of the Draft Master Plan.

However, the DEIR preparers agree that a separate agreement between BBID and CSD for each new development permit that would require the use of riparian water is unnecessary. Mitigation Measure 4.4.1-2(a) has been revised to require only one such agreement.

The new paragraph suggested for inclusion in the text of the DEIR is unnecessary since the top paragraph on page 4.4-7 of the DEIR already describes when the Water Service Agreement will become effective.

P20 Mitigation Measure 4.4.1-3(a) has been revised to require each specific plan subsequent to Specific Plan I to compare the actual water demand with that estimated in the Draft Master Plan. Specific plan approval would be contingent upon the adequacy of the proposed actions to increase water conservation savings, if needed.

Mitigation Measure 4.4.1-3(c) has been deleted because the San Joaquin County Counsel has provided their opinion on the availability of riparian water rights for the project. See Response L85.

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- P21 The DEIR preparers agree that disposal of water treatment sludge should remain flexible, and allow the CSD to switch disposal methods as new reuse technologies or companies to provide recycling become available. Mitigation Measure M4.4.1-5(c) has been revised, as suggested.
- P22 Mitigation Measure M4.4.2-1(d) recommended minor revision to Implementation b) under Objectives 1 and 2 in Wastewater Treatment Plant. The Draft Master Plan stated that activated sludge would be used after Specific Plan I, therefore the restriction to use activated sludge was imposed by the Draft Master Plan authors, not the DEIR preparers. However, the DEIR preparers agree that secondary treatment options should not be restricted to activated sludge; Mitigation Measure M4.4.2-1(d) has been revised to allow the use of other secondary treatment process(es).

Mitigation Measure M4.4.2-1(f) has been revised to require that the wastewater treatment plant be operational before the approval of the first final subdivision map. In addition, the requirement for a separate Development Permit for each major change in treatment method has been deleted since there would not be significantly different environmental impacts as long as the effluent would be of similar or better quality, and if the method of disposal does not change.

The commentor argues that the lack of additional wastewater treatment capacity would not result in illegal or inappropriate wastewater disposal because building permits cannot be issued if there is insufficient additional capacity. However, there would be other environmental impacts associated if the project did not buildout as proposed. Certain improvements to the project site (e.g., community parks, Mountain House Creek habitat enhancement, Old River levee repair) may not occur if development were to be suspended. The environmental review completed for the project does not take into account the absence of these improvements. Therefore, the EIR recommends mitigation measures to ensure that project buildout will occur.

The commentor stated that Mitigation Measure M4.4.2-1(g) imposes an unnecessary degree of oversight by the County of CSD operations. The relative responsibilities of the CSD and the County, and the appropriate degree of oversight by the County, will change as project development progresses. Responsibilities will be transferred from the County to the CSD over time, at the discretion of the County. The DEIR was written to ensure that the County maintains oversight of the water and wastewater services until that responsibility has been fully transferred to the CSD.

The commentor suggested that Mitigation Measure 4.4.2-1(i) be worded to prohibit adverse effects of reclamation if they violate applicable standards or are otherwise significant after taking into account offsetting benefits. The DEIR preparers have not been able to identify numerical standards for determining acceptable degrees of degradation caused by reclamation. Secondly, it would be impractical to perform an adverse impact versus benefit analysis for reclamation since it would be very subjective. The mitigation measure specifies "physical" adverse impacts to minimize the possibility that a party may object to reclamation for

subjective or emotional reasons. Mitigation Measure 4.4.2-1(i) has been revised to read "minimize adverse physical impacts" and to give examples of "physical" adverse impacts.

- P23 Implementation b) under Objective 1 in Wastewater Reuse Program of the Draft Master Plan stipulates that sufficient wastewater storage and disposal acreage for the duration of the corresponding specific plan would be under the control of the applicant or the community prior to the submittal of the first Tentative Map for Specific Plan I, and prior to the approval of specific plans subsequent to Specific Plan I. Since the applicant has committed to this stipulation in the Draft Master Plan, it does not appear justifiable to rescind it during the DEIR comment period.

The provision for obtaining the consent of involved jurisdictions was intended to ensure that agencies, such as affected irrigation districts and adjacent counties, that may receive the reclaimed water would not object to wastewater disposal within their jurisdiction. Mitigation Measure 4.4.2-1(k) has been revised to specify the types of jurisdictions whose consent must be obtained. Unless both the land ownership and jurisdiction consent issues have been resolved, the Draft Master Plan, as proposed, could not be implemented.

The revisions to Mitigation Measure M4.4.2-1(k) suggested in the comment, to require a demonstration of sufficient reclamation land be in the control of the community for each development permit, would be implemented. The permitting agencies should not be burdened with determining the availability and adequacy of reclamation lands when each development permit is processed. This approach would also extend the processing time for each application.

- P24 The DEIR preparers agree that flexibility in wastewater sludge disposal should be allowed. Mitigation Measure M4.4.2-3(b) has been revised to delete reference to Foothill landfill. Reference to activated sludge treatment in Mitigation Measure M4.4.2-3(c) and (d) has been deleted. Mitigation Measure M4.4.2-3(d) has been further revised to allow the CSD to change the wastewater sludge disposal method with County approval, and that provisions for disposal be guaranteed for five years into the future.

- P25 Comment noted. The DEIR preparers believe that the accumulation of floating debris and petroleum residual in detention ponds could lead to potentially significant impacts such as odors, mosquito infestation, and excessive algae growth, if not mitigated. Mitigation Measure M4.4.3-1 has been modified to require that the Operations and Maintenance Manual to be prepared and submitted to the County address the issue of access roads to basins along Mountain House Creek.

- P26 The comments are noted. Mitigation Measure M4.4.4-2(b) has been modified to allow the use of deciduous trees in locations that may affect solar access.

Regarding the number and location of neighborhood commercial activities, transportation studies of transit stations and shopping centers have indicated that, when the walking distance

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required to reach a destination is greater than approximately one-quarter mile, pedestrian usage begins to decrease. Shopping center developers generally strive to keep walking distances even shorter (500 feet or less). Policy (h) in the Bus Transit Section of the Draft Master Plan acknowledges this by requiring that a majority of residences, retail and employment sites within the project be located within one-quarter mile of the nearest transit stop.

The Draft Master Plan proposes that all residences be located within 2,000 feet of the nearest neighborhood shopping area. The commentor notes that most, if not all, residences could be located within one-half mile of neighborhood commercial areas at the time of future Specific Plan adoptions. However, in the judgment of the DEIR preparers, if the project's land use plan does not include neighborhood shopping opportunities located within a one-quarter mile distance of all residences, then the land use plan will be in conflict with the numerous objectives and policies contained in the Draft Master Plan that seek to maximize pedestrian circulation, de-emphasize solo auto use, and reduce air quality impacts. See also Response P51.

Mitigation Measure M4.12-1(d) has been deleted. Mitigation Measure M4.4.4-2(d) has been changed to be consistent with Mitigation Measures M4.12-1(e) (now d), and S4.12-1(b) in the Transportation section, which have been revised. The mitigation measures now require that as many of the project's residences as possible be located within one-quarter mile of the nearest neighborhood or community shopping area.

Mitigation Measure S4.4.4-1 has been deleted in response to this comment.

- P27 The DEIR text has been revised to minimize the area of archaeologist oversight of construction activities near Ca-SJo-136.
- P28 The text of the DEIR has been changed on page 4.7-11 to correct the typographical error.
- P29 Mitigation Measure M4.8-1(a) requires detailed landscaping plans for roadways and edge treatments to be included in each Specific Plan if not already set forth in the Design Manual. It is somewhat redundant with existing Draft Master Plan implementation measures, but a policy stating the relationship between the Draft Master and Draft Specific plans would help to clarify what detailed landscaping design issues are to be left to individual specific plans.

Regarding the Community Review Board, the DEIR preparers recommend that an advisory committee or board be created, which could include some members of the larger Community Services District Board of Directors augmented with one or more design professionals. The main purpose of the Review Board would be to review Development Permits or other development applications for their consistency with established design standards in the Draft Master or specific plans. The Community Review Board would also be advisory to the CSD Board and the County on design issues that are not directly regulated by master or specific

plan policies or implementations (such as the choice for public art in common spaces, minor design details of playgrounds or community parks, and choosing an appropriate gateway monument along the I-205 frontage). Mitigation Measure M4.8-1(e) has been added to require that the Draft Master Plan further define the Community Review Board and describe its typical duties.

Although, at hearings before the San Joaquin County Board of Supervisors during the approval of the Mountain House General Plan Amendment, representatives of the applicant pledged to construct a distinctive monument that would serve as a formal gateway to the County, it is acknowledged that the sign does not mitigate any identified significant environmental impacts. Mitigation Measure M4.8-1(b) has been deleted.

- P30 Mitigation Measure M4.8-1(c) has been revised to incorporate some of the suggested language of the commentor, with the added provision that the comprehensive sign program should consolidate the pole signs for the area to no more than two locations and should not exceed the maximum size specified in the sign regulations of the County Development Title.
- P31 Mitigation Measure M4.8-1(d) has been revised to incorporate the suggested language of the commentor.
- P32 Comment noted. The DEIR preparers believe significant view corridors should be identified in the Draft Master and Draft Specific plans, and that waiting until the tentative map phase will be too late to incorporate provisions of a comprehensive view preservation program. Mitigation Measure M4.8-1 has been modified to include identification of view corridors in the Parks and Open Space Plan.
- P33 The typographical errors in Mitigation Measures M4.8-3(c) and (d) have been corrected.
- P34 Comment noted. Mitigation Measure M4.8-4 has been modified in the DEIR.
- P35 See Response P29. No change has been made to Mitigation Measure S4.8-1.
- P36 Comment noted. Mitigation Measure S4.8-2 has been modified in the DEIR.
- P37 The issue of how to characterize "impacts" related to the project's potential failure to meet adopted jobs/housing and affordable housing goals under the California Environmental Quality Act (CEQA) is complex. As the DEIR notes, the CEQA Guidelines state that "economic, social, and particularly housing factors shall be considered by public agencies together with technological and environmental factors in deciding whether changes in a project are feasible to reduce or avoid the significant effects on the environment identified in the EIR."

The DEIR identifies the significant transportation impacts of the proposed project on the regional and local roadway system. The quantification of impacts related to the addition of

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project vehicle trips to the transportation network, and consequent air quality impacts, relies upon a computerized model that takes into account the relative balance between the number of residences and jobs created on-site. In addition, the Draft Master and Draft Specific plans must be consistent with new community policies in the County General Plan 2010, two of which require that new communities shall "maintain a close balance between jobs and housing" (New Communities Policy 19 (g)) and shall "provide a variety and choice of housing for all socio-economic segments of the community" (Policy 19(F)). Thus, the issues of the jobs/housing balance and affordable housing provided by the project are integrally connected with the quantification of significant impacts related to transportation, air quality, and other impacts.

Impacts that are identified in the Population, Housing, and Employment section of the DEIR are directly related to the project's ability under various land absorption schedules to meet the goals of the Jobs/Housing Balance, Affordable Housing, and Transportation Demand Management programs that are included in the Draft Master and Draft Specific plans. The section has been retained in its present format, with the identification of "Impacts" and "Mitigation Measures."

The commentor is correct that the Draft Public Financing Report already includes both High Growth and Low Growth land absorption schedules. Mitigation Measure M4.9-1(a) is necessary to retain consistency between the Draft Master and Draft Specific plans, and the Draft Public Financing Report. Inclusion of at least two absorption schedules will also provide assistance to County and the Community Services District Board of Directors in evaluating the success of the project's programs.

- P38 The analysis contained in the DEIR indicates that the Affordable Housing goals included in the Draft Master Plan may not be reached by the project during the first one-half of the project (see Table 4.9-6 in the DEIR). For example, by the time approximately 4,000 units have been constructed (at the buildout of Specific Plan I), the affordable housing goal is 1,623 units and only 982 affordable units are proposed. In addition, the analysis indicates that overall housing goals may not be met unless policies and programs are added to the Draft Master and Draft Specific plans to ensure that the number of units planned for affordable housing are actually occupied initially and over time by qualified owners or renters (refer to Response P40). Finally, the DEIR suggests that the Affordable Housing program outlined in the Draft Master Plan may rely too heavily upon the use of second ("mother-in-law") units and Senior Citizen units to met the affordability goals.

As the commentor notes, discussions occurred in January 1994 between County staff, the DEIR preparers, and the economic consultant for the project applicant. The purpose of the discussions was to review the initial draft of the Jobs/Housing and Affordable Housing programs included in the Draft Master Plan. Major issues raised during the discussions were a clarification of the number and densities of planned affordable units (Table 3C.5 in Appendix

3B of the Draft Master Plan), and clarification of the role of second units and senior citizen units in the proposed Affordable Housing Program.

During the discussions, the economic consultant advised the DEIR preparers on the assumptions used in the preparation of the Affordable Housing Program and, specifically, how many second units were expected to be occupied by Very Low and Low Income renters versus how many were expected to be occupied by family members. Based upon these and earlier discussions, an agreement was reached between the consultants to assume that no more than one-quarter (214 out of a total of 857) of the planned second units, as well as one-quarter of the planned senior citizen units, would be occupied by qualified Very Low or Low Income tenants. The remaining 643 second units were not expected to be rented out to third parties, but are expected to be occupied by family members. This assumption is noted in the DEIR Table 4.9-2, footnote 3, and in the text on page 4.9-12.

The initial Affordable Housing Program was subsequently modified by the applicant's economic consultant to include this assumption. The revised Affordable Housing Program was also revised by the economic consultant to assume that an additional 1,286 "extra allowable units" could be constructed in addition to the proposed maximum of 16,105 units for the project. The extra allowable units include the 857 planned second units, as well as an additional 429 High Density units designated for senior citizens. These components of the project are described on pages 4.9-11 and 4.9-12 of the DEIR.

Further response to the commentor's statement that the affordability index "has been misinterpreted by the [DEIR] consultant" cannot be offered because no specific criticisms of the DEIR methodology and analysis have been provided by the commentor.

- P39 The statement in the DEIR is correct since it indicates that the Affordable Housing Program proposed by the applicant does not seek to address existing countywide affordable housing shortages. Instead, the project's Affordable Housing Program seeks to provide affordable housing for employed workers who will reside in the southwestern San Joaquin County area.
- P40 Comment noted. Mitigation Measure M4.9-2(a) recommends that policies and programs be added to the Affordable Housing program to ensure that qualified Very Low and Low Income residents initially rent the affordable units and that the number of planned affordable units is retained over the buildout of the proposed project. The mitigation measure does not require the designation of "low income housing" on the project's land use map. It is not the intent of the mitigation measure to " earmark" specific homes or apartments as low income units in perpetuity, but to ensure that the total number of affordable units is kept constant. For example, when an affordable unit in an apartment complex is vacated by the low income renter, a mechanism should be in place to ensure that, if the unit is re-rented at market value, another affordable unit be added elsewhere to retain the overall number of affordable units in the project.

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- P41 Comment noted. Mitigation Measure M4.9-2(e) simply requires that a range of programs that construct and maintain affordable housing be referenced and considered in the project's Affordable Housing and Housing Trust Fund programs. The mitigation measure also recommends that policies be added to the Draft Master Plan that outline the relationship between the Trust and other non-profit corporations that actually build and maintain affordable housing (such as BRIDGE, Inc.), and that the Draft Master Plan also include a proposed phasing schedule for the collection of Trust monies and for the marketing of affordable units.
- P42 Comment noted. Refer to Response P5.
- P43 Comment noted. Refer to Response P38.
- P44 The commentor recommends that a setback of 220 feet from the western property boundary to the nearest dwelling would sufficiently mitigate potential adverse health impacts from aerial spraying. However, the commentor does not provide any factual basis for the recommendation of a 220-foot setback. Please also refer to Responses L33 and P2.
- P45 The last sentence of Mitigation Measure 4.10-2(d) was provided for informational purposes as the policy of PG&E. In response to this comment, the text of the DEIR has been changed on page 4.10-6.
- P46 The opinions of the commentor are noted. It should be noted that the commentor does not provide evidence that hazardous materials were not disposed of at the household landfill (this is a common occurrence, and often includes paint and batteries); that even if groundwater were not used on-site, it is a resource regulated by the State of California under the jurisdiction of the Regional Water Quality Control Board; and that the commentor presents no data to substantiate a 250-foot buffer around the household landfill.
- P47 The text of the DEIR has been revised in response to this comment on page 4.10-9
- P48 Mitigation Measure 4.10-7(b) provides an alternative to reduction in densities by having the Class Location Designation changed. No change in the text of the DEIR was made in response to this comment.
- P49 Comment noted.
- P50 Comment noted.
- P51 The proposed Mitigation Measure 4.12-1(e) is intended to reduce the need for project residents to use cars for shopping, personal business, and commute trips within the project, and is consistent with the Draft Master Plan policy to strongly support the concept of travel demand management. It is well established that people do not like to walk long distances; transit operators generally try to serve riders within a one-quarter mile walk, while shopping centers

generally strive to keep walk distances from parking areas much shorter than that (500 feet or so). In terms of air quality, a driving trip of one-quarter mile has almost as much impact as a much longer trip since most emissions are due to the "cold start." It is recognized, however, that this mitigation measure is disfavored by the applicant because of concerns about the economic viability of adding another neighborhood center. Mitigation Measure M4.12-1(e) [now M4.12-1(d)] has been modified to require that as many homes as possible should be located within one-quarter mile of the nearest neighborhood or community shopping center.

- P52 Text under Mitigation Measure 4.12-1(f) on page 4.12-20 of the DEIR has been modified to state that employers should be "encouraged" to provide alternative work hours programs.
- P53 Text under Mitigation Measure 4.12-1(i) on page 4.12-20 of the DEIR has been modified, as requested in the comment.
- P54 For EIR purposes, it is not appropriate to speculate on whether the project will simply be replaced by other, higher impact development if the project does not occur.
- P55 As indicated in Comment L38, widening of Altamont Pass Road to four lanes may be consistent with current Alameda County policy if the additional capacity serves trucks and/or HOVs. Comment noted regarding project's opposition to widening Altamont Pass Road. As noted under Mitigation Measure M4.12-4, an alternative to widening is to provide safety and operational improvements that will be warranted due to increased traffic volumes.
- P56 Table 4.12-7 of the DEIR indicates that the estimates are subject to refinement. Text on page 4.12-29 has been revised to include a similar reference.
- P57 Regarding statement that the project should not be responsible for a lead role if its fair share is less than 50 percent, we do not concur. Situations may occur where no single project is responsible for more than 50 percent, in which case the project with the greatest share would logically take the lead role. Alternatively, it is reasonable that the first project would play the lead role, for scheduling reasons, even if responsible for less than 50 percent. In any case, provisions should be made for reimbursement by other projects for up-front costs associated with playing the lead role.

In the case of the I-580/Patterson Pass Road interchange, we concur that a more detailed analysis may be warranted to refine the fair share estimate and to identify other contributors to traffic growth. Depending on results of these studies or in response to project development scheduling, it may be appropriate to designate an alternative lead role.

We do not concur that the second paragraph of Mitigation Measure M4.12-3(c) is redundant with the annual transportation monitoring referenced in Mitigation Measure M4.12-1(i). The former provides the County an opportunity to review and, if appropriate, adjust the trigger points before any development is approved. The annual monitoring program is a means to

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redirect improvements later in the process should roadway improvement needs be found to be different than projected. For efficiency, it may be possible to use the trigger point review done during an annual monitoring to fulfill the requirements for a particular specific plan development permit.

- P58 Regarding LOS standards for roadways outside San Joaquin County, text on page 4.12-34 has been revised to note that standards of the prevailing county or city jurisdiction are the basis for identifying deficiencies.

Regarding acceptability of Mitigation Measure M4.12-4(a), comment noted. The DEIR addresses impacts and mitigation for the Mountain House project only, and does not attempt to recommend policies regarding inter-jurisdictional agreements or reciprocity for other projects. These issues would be addressed by the County in conjunction with the other agencies involved.

- P59 Comment noted regarding need for cooperation and approval of affected jurisdictions.

Regarding deletion of paragraph k) under Mitigation M4.12-4(d), we do not concur. This measure gives the County an opportunity to review and revise the initial trigger points proposed in the Draft Master Plan or Draft Specific Plan early in the process, rather than waiting for annual monitoring after occupancy occurs when it may be too late to make adequate provisions for the needed improvements. It is agreed, however, that these revised trigger points could be further revised as a result of annual monitoring over the life of the project.

- P60 See Response P51 and P26.

- P61 We concur that highest traffic volumes are projected along the segment of Mascot Boulevard between Patterson Pass Road and De Anza Boulevard. However, the DEIR analysis indicates the potential need for a four lane road to continue west to at least the next north-south road and, with a high school site planned off Mascot Boulevard, the four lane section should continue west to at least Central Boulevard. In some locations, higher volumes are projected under the Draft Specific Plan than under the Draft Master Plan due to the lack of available north-south routes to Grant Line Road. West of Central Boulevard, relatively low peak hour volumes are projected on Mascot in all cases, but slightly more than 10,000 daily vehicles are projected here as well, which is close to the desirable limit of a two lane road. Furthermore, Mascot Boulevard appears to function more as a minor arterial than a collector, and the standard width of a minor arterial is four lanes. For these reasons the DEIR recommends an ultimate four lane road, at least from Patterson Pass Road to Central Parkway. This would not preclude making right-of-way provisions for four lanes and initially constructing it as a two-lane road until such time that the annual monitoring program indicates the need for widening.

P62 The commentor is incorrect in his characterization of County policy regarding Level of Service (LOS) standards. The County policy, as expressed in the General Plan 2010, is to allow LOS D on County roads only within city Spheres of Influence where the City has adopted a LOS of D. Stockton is the only city in the County that has adopted LOS D. Therefore, no revision has been made to the DEIR.

P63 Comment noted regarding preferred text.

P64 The DEIR reference to sufficiency of transit service does not preclude recommendations for additional services to be provided. Sufficiency refers to whether the amount of service provided for in the Draft Master Plan will accommodate the projected ridership demand (including meeting the needs of transit dependents and meeting requirements of the CMP). The objective of providing additional or improved transit services is to attract further transit riders and thereby reduce peak period auto usage, particularly in commute corridors such as I-580.

P65 See Response P51.

P66 See Response P61.

P67 The SJVUAPCD is not currently considering the imposition of air quality mitigation fees for indirect sources such as the project. The mitigation measure proposes that the County develop an air quality mitigation fee program for projects that are unable, through regular mitigation, to reduce impacts by 25 percent. Such a measure would, of course, be applied equally to all development projects within the County (whose trip generation exceeds 200 trips per day).

The proposed fee would only apply to projects unable to meet the goal of a 25 percent reduction in impacts. The fee would only be applied to reach the 25 percent goal; i.e., a project with a program that would reduce impacts by 20 percent would "purchase" the needed additional 5 percent through the fee mechanism. Thus, it is the intent that the proposed project would get full credit for any mitigation programs that can be documented.

P68 Proximity between agricultural uses and new residential uses has been the cause of nuisance complaints in many areas of California where urbanization occurs near agricultural operations. A large setback between residences is deemed necessary to avoid similar complaints because of the following factors:

- The strong prevailing wind speeds typical of the project area exacerbate fugitive dust generation and are capable of carrying dust and particulate matter large distances.
- The extreme directionality of winds at the site. The project is located just east of a major wind gap in the mountains to the west, with the result that winds are predominantly from

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a westerly direction. This places proposed residences directly downwind of any agricultural activity virtually all year.

Proposed windrows and vegetation would reduce winds somewhat, but any removal of material would be from deposition, which means that properties protected by windrows or vegetation would be subject to accelerated dustfall, which is a major contributor to agricultural/residential conflicts.

P69 The issue of odors has been identified as a concern of vicinity residents. Therefore, it is called out as an impact; however, it is not considered a significant impact and no mitigation measure has been recommended.

P70 Increased carbon monoxide as a result of the project is an impact. The analysis identifies it to be less than significant, hence no mitigation measure is required. No changes in the DEIR text have been made in response to this comment.

P71 Construction dust generation far exceeds agricultural dust generation, on a per-acre basis, because of the much higher activity levels and vehicle use associated with construction. The reference to the silty soils of the area has been deleted.

SJVUAPCD Rule 8020 imposes what could be considered minimum dust controls for construction areas. Meeting these requirements in no way implies that substantial local or regional air quality impacts would be avoided. Given the large potential emission from the site over an extended period, the very dry and windy conditions on the site, and the nonattainment status of the air basin for PM-10, it is reasonable to apply available additional mitigation measures beyond those required by Rule 8020.

The 15-mile per hour speed limit on construction vehicles was meant to apply only to truck traffic on unpaved roads. Mitigation Measure 4.13-5(c) on page 4.13-8 of the DEIR has been deleted.

P72 See Response P68.

P73 Comment noted. Reasons for using a 60 L_{dn} cutoff are clearly explained on Page 4.14-3. The flexibility that the commentor is requesting is provided for in Mitigation Measure M4.14-1 on Page 4.14-6. This measure would allow exterior noise levels in primary outdoor living spaces to reach 65 dB if it is not reasonable or feasible to achieve 60 dB.

P74 The conclusion that the six-foot berm would provide an additional one decibel's worth of mitigation is based on the assumption that the berm would probably end at the new community's limit line and would not shield freeway noise coming around the end of the berm. If the berm were extended in length, it could be more effective.

The suggested Policy at the top of Page 4.14-8, which reads as follows, "future residences shall be located outside the 65 L_{dn} noise contour as estimated before mitigation is included" has been deleted. This Policy is adequately discussed elsewhere.

- P75 Comment noted. Mitigation Measure (page 4.14-8) has been revised. Since these residences are and will continue to be in the County and not within the new community limits, the County Noise Standards should be applied.
- P76 Comment noted. Maximum noise levels would be excessive if only a 220-foot setback is provided. Therefore the Impact and Mitigation Measure have not been changed.
- P77 Comment noted. The mitigation measure should remain to ensure that the Draft Master Plan will be amended.
- P78 Comment noted. The emphasis is on eliminating walls. A more aesthetically pleasing community can be achieved if setbacks are used. The purpose of this Mitigation Measure is to evaluate setbacks as a first priority.
- P79 The commentor alleges that the Mitigated Alternative represents an alternative that is not financially feasible and that it does not represent sound land use policies. As indicated in the DEIR, the presented alternative represents an alternative that combines various major mitigation measures to produce an alternative that is environmentally superior to the proposed project. The commentor's opinion that it would not be financially viable or not represent sound land use policies is noted.
- P80 Comment noted.
- P81 Comment noted.
- P82 Comment noted.
- P83 The text of the DEIR has been changed on page 5-3 to indicate that the Mitigated Alternative would reduce the developable area of the site by more than 40 percent.
- P84 The commentor alleges that regional parks, community parks, golf courses, marina, community amenities, and multi-modal transit stop would not be feasible for the Mitigated Alternative. These opinions are noted.
- P85 Comment noted.
- P86 The Mitigated Alternative provides for a change in land use plan for the project site to mitigate the loss of habitat and prime agricultural lands while trying to accommodate the maximum number of residents. It should be noted that, in the southwestern portion of San Joaquin

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County (including Tracy), the trend in past years has been toward homes that are lower priced and with fewer square feet. The Mitigated Alternative would follow that trend by providing higher density residential areas.

P87 Comment noted.

P88 Comment noted.

P89 Refer to Response P79.

P90 The Mitigated Alternative would provide for development at urban densities. The statement that the Town Center could not be developed from a reduced population appears erroneous when considering existing smaller communities with established town centers; furthermore, the Town Center would be expected to be smaller than the proposed project, under this alternative.

P91 The Mitigated Alternative would consist of a mix of housing; but instead of being dominantly low density, as proposed, it would be dominantly medium to high density, while providing other housing densities as well.

P92 The commentor indicates that the jobs housing balance would be difficult to maintain due to restrictions in housing types and job sites. The Mitigated Alternative provides for a multitude of housing types; only the housing would not be restricted to no more than 30 percent low density housing.

P93 Fiscal impacts are not addressed in this DEIR.

P94 Comment noted.

P95 Comment noted.

P96 Comment noted.

P97 Comment noted.

P98 Comment noted.

P99 Comment noted.

P100 Comment noted.

P101 Comment noted.

P102 Comment noted.

P103 The preparers of this DEIR disagree with the assertion that the Mitigated Alternative is inferior to the Proposed Project because it would require public right-of-way through agricultural areas to reach Old River. There are no data to support this allegation. Even with public right-of-way, this alternative would still be the environmentally superior alternative.

P104 The Mitigated Alternative provides for extensive wildlife habitat and enhancement. The commentor's assertion that reservation of wildlife habitat on-site would be offset by development elsewhere in the County (presumably in areas of wildlife habitat) is not supported by facts. Growth in the County has been forecasted in the General Plan for the County and incorporated cities within the County. There is no reason to believe that significant growth would occur in areas not identified in the respective general plans.

P105 The commentor suggests that tertiary treatment of wastewater, as proposed in the Mitigated Alternative, should not be considered superior to the proposed project; especially not without first conducting various engineering studies. The DEIR preparers agree that additional evaluation of the timing and quality of discharge would need to be further assessed; and, as discussed on page 5-4 of the DEIR, approval from the Regional Water Quality Control Board would need to be obtained.

P106 Impacts to regional road networks have been evaluated in the FEIR prepared for the San Joaquin County General Plan 2010. Any specific developments elsewhere in the County would be subject to environmental review at the time of application submittal. It appears to be tenuous, at best, to suggest that if the proposed project were not implemented, as proposed, significant impacts would occur elsewhere in the County.

The Mitigated Alternative does not indicate the distance from homes to neighborhood commercial areas, but rather that neighborhood commercial areas should be made available in 3,000-resident increments. The proposed project provides one neighborhood commercial area for every 3,626 residents. If the commercial areas were close to residences, dependency on cars would be reduced.

P107 Mountain House Business Park is proposed in the Mitigated Alternative to be an integral part of Specific Plan I development.

P108 The commentor incorrectly assumes that the entire site should be intensely surveyed prior to development. The DEIR has been reworded on page 5-4 to provide clarification.

P109 The DEIR states that agricultural landowners in the project area could, over time, request General Plan Amendments to convert their property to urban uses, and these requests could occur "if water rights of the Byron-Bethany Irrigation District were reduced and water supply for surrounding agricultural operations were restricted." The purpose of the DEIR language is not to suggest that these restrictions would be a direct result of the project, but to indicate that reductions in BBID water allocations could be created by existing or new State and

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Federal legislation, for example, legislation to further protect endangered species and habitat. Coupled with the growth-inducing impacts of the project, this combination of factors could cause agriculturalists in the area to try to urbanize their property.

- P110 The water and wastewater treatment plants are sized to serve only the project; however, individual property owners immediately adjacent to the project could petition San Joaquin County to include their property within the boundaries of the new community. The County could approve the petition if the application met the criteria required under General Plan 2010 Policy 21, Growth Accommodation. The creation of buffers and inclusion of deed restrictions are two measures that would serve to discourage adjacent landowners from petitioning the County to expand the new community boundaries. Also refer to Response L5.
- P111 Potentially significant land use conflicts between the project's urban uses and adjacent agricultural operators are addressed in the Land Use and Agricultural Issues section of the DEIR. Also refer to Responses L33, L34, L36, and P2.
- P112 As indicated in the cover letter to the comments by Baker & McKenzie, the Nonsubstantive DEIR comments in Attachments 2 and 3 to their letter are not believed to require a formal response in this FEIR.

San Joaquin Farm Bureau Federation

- P113 Impacts due to the loss of prime agricultural land were analyzed in the two previous EIRs prepared for the project (Mountain House New Town General Plan Amendment Final EIR, March 1992; and Mountain House New Town General Plan Amendment Final Supplemental EIR, January 1993). The comments regarding the need for the County to adopt an agricultural land mitigation fee are noted. Mitigation Measure M4.1-1 requires the developer to pay an agricultural mitigation fee, if the San Joaquin County Board of Supervisors decides to adopt such a fee. Also refer to Response P1.
- P114 Comment noted. Buffer zone requirements were analyzed and recommended as part of the previous General Plan Amendment EIRs for the project. The two previous EIRs, as well as the analysis contained in this DEIR, indicate that land use conflicts and the need for 500-foot buffers are most significant on the west side of the project. More detailed environmental and design information provided by the applicant indicate that noise impacts along the I-205 freeway frontage may be mitigated by the existing topography and by construction of earth berms and, if needed, soundwalls. The nearest residences are planned for approximately 320 feet from the center line of I-205.
- P115 Comment noted. The proposed change to the mitigation measure has not been incorporated because it is unclear what the legal ramifications or additional safeguards would be, if new residents were to be notified of the County's Right-to-Farm Ordinance by placement of the Ordinance on the face of the deed prior to recordation by separate instrument. It would not be possible to assemble a list of possible agricultural conflicts in advance.

P116 A new paragraph describing the draft Resource Management Plan pursuant to the Delta Protection Act as it relates to wastewater storage and disposal has been added to page 4.4-19 of the DEIR. Storage and disposal of wastewater from the project on Fabian Tract may be a moot issue if the final Delta resource management plan prohibits the practice. Title 22 of the California Code of Regulations specifies the quality necessary for several reuse options for wastewater. The Draft Master Plan proposes to meet the quality requirements for the proposed reuse option. The DEIR identifies potential impacts and mitigation measures associated with the reuse of the wastewater on Fabian Tract. It is not justifiable to require tertiary treatment unless the findings from the mitigation measures specified in the DEIR indicate that irrigation on Fabian Tract with secondarily treated wastewater would adversely affect the environment in the Delta.

P117 The DEIR preparers believe that maximum on-site disposal would be prudent. The discussion of on-site wastewater disposal has been revised on page 4.4-20 of the DEIR and Mitigation Measures 4.4.2-1(n), (o), and (p) have been added. The project would generate more wastewater at buildout than could be disposed of on-site, even if a dual distribution system were installed, hence the need for off-site disposal. Such disposal could be minimized by on-site disposal/reuse.

P118 See Response P164. The projected water demand for the project is a reasonable estimate. The confirmed water supply available to the project appears sufficient provided water conservation measures were implemented effectively. The available water supply would not result in an increased diversion from the Delta, and therefore would not infringe upon the rights of other users. The project is not located in a significant groundwater recharge zone.

P119 The DEIR concludes that the proposed project would have a significant adverse impact on the air quality in San Joaquin County and the San Joaquin Valley Air Basin, both during construction and during operation. The DEIR concludes that the project will delay attainment of the ozone and PM-10 standards in the air basin. The Draft Master Plan, Draft Specific Plan I, and DEIR proposed an extensive program of air quality mitigation, but the mitigation measures reasonably available for projects of this type are unable to reduce project impacts to a level that would not be significant; project impacts are deemed significant and unavoidable.

San Joaquin Audubon Society

P120 Comment noted.

P121 Comment noted.

P122 Comment noted. Loggerhead shrike (*Lanius ludovicianus*) and horned lark (*Eremophila alpestris actia*) are both Federal candidate taxa of concern (Category 2) that may frequent or breed on the project site, and were not identified in the DEIR as taxa of concern that could be affected by the proposed project. As noted on page 4.11-39, measures implemented to mitigate adverse impacts on Swainson's hawk may also serve to alleviate impacts on other bird

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taxa of concern, depending on the extent of on-site habitat preservation, characteristics of any required off-site conservation areas, and the provisions for habitat enhancement. Any off-site mitigation area would have to consider whether enhancement efforts for target species would adversely affect the suitability of the area for other special-status taxa that have different habitat requirements. In response to the comment, Table 4.11-1 on page 4.11-8 and the discussion of populations of bird taxa of concern that could be affected by the project on page 4.11-39 of the DEIR have been revised to include loggerhead shrike and horned lark as additional bird taxa of concern.

P123 Comment noted.

P124 Comment noted.

Ralph B. Grunauer, Jr.

P125 Comment noted.

Raymond A. Andersen

P126 Comment noted.

Jean and Victor Andresen

P127 Comment noted.

George and Norma Poet

P128 Comment noted.

Pacific Gas and Electric Company

P129 Comment noted.

Bay Area Rapid Transit District

P130 Altamont Pass commuter rail service has been included in both the Draft Master Plan and Draft Specific Plan I analyses, as noted on pages 4.12-14 and 4.12-53 and in Appendix F of the DEIR. In addition, Mitigation Measure M4.12-1(h) addresses a potential station site closer to Mountain House.

Robert Bianchi Family Trust

P131 The comments regarding the project's consistency with the Delta Protection Act are noted. The commentator notes that since the DEIR was prepared, the Delta Protection Commission has released a Draft Land Use and Resource Management Plan for the Primary Zone of the Delta. The commentator correctly notes that a relevant policy in that draft plan states that "whenever possible, sewage treatment facilities and holding ponds should be located outside the Primary Zone..." (Policy P-3). However, the same policy leaves open the possibility that treated

wastewater could be used within the Primary Zone "to support agriculture, wildlife and/or recreation." Also refer to Response P3.

P132 Comment noted.

Chevron

P133 Comment noted.

P134 Comment noted. The proposed Draft Master Plan includes provisions for review of land uses (Tentative Maps) by owners of pipelines traversing the site, if development is proposed within 500 feet of development.

Plumbers and Steamfitters U.A. Locals 492, 342, and 159

P135 Please refer to Responses P136 through P171

P136 Comment P136 is labeled as an "introduction" and summarizes more detailed comments P137 through P171. In addition, comment P136 questions the DEIR statement that the DEIR "may" serve as a master EIR, and states that this uncertainty creates a dilemma for EIR reviewers because they cannot know what environmental review will follow and what permits and entitlements are being addressed in this EIR. The specific responses to comments P137 through P171, which are summarized or referred to in the introductory part of comment P136, are set forth below in response to P137 through P171. The response to the master EIR question is set forth here.

As stated in the project description, this DEIR has been prepared to evaluate the environmental impacts of the following project approvals: the Mountain House New Community Draft Master Plan, the Mountain House Draft Specific Plan I, a series of General Plan Amendments to the San Joaquin County General Plan 2010, a series of zone reclassifications, a series of text amendments to the San Joaquin County Development Title, and a development agreement. The development proposed pursuant to these applications is described in the Project Description, including maps showing the proposed General Plan changes, the community concept for the Draft Master Plan, the conceptual layout for the Draft Specific Plan I, and the proposed zone reclassifications. These are the possible approvals and actions for which this DEIR is prepared.

Following any approval of the above actions, the DEIR may then be used in the environmental review of subsequent actions and approvals. However, the extent to which the DEIR will be used for other approvals, whether by the County or by other agencies, will not (and should not) be determined until the time of such subsequent approvals when the County will review the extent to which environmental impacts of those subsequent approvals have been described in this DEIR, as well as whether there are project changes, changes in circumstances, or new information requiring further environmental analysis. Thus, while there is some uncertainty regarding the application of this DEIR to future project approvals, that uncertainty is inherent

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in the process of sequential actions or approvals under CEQA because the degree to which it will be appropriate to use or rely upon this DEIR for future approvals is uncertain at this time. For example, it would be premature to determine now that no supplemental EIR will be required for certain followup approvals.

There is an additional unavoidable element of uncertainty regarding the possible use of the DEIR as a master EIR. The provisions for a master EIR were added to the CEQA statute in 1993, and became effective 1 January 1994. The statute contains general provisions describing the content of master EIRs and the way in which master EIRs may be used to focus or limit the CEQA review of subsequent projects. However, the Resources Agency has not yet promulgated any CEQA Guidelines providing more detailed guidance regarding the way in which master EIRs are to be prepared and used. The 1993 CEQA legislation establishing the master EIR called for promulgation of such CEQA Guidelines by July 1995 and legislation is currently being considered that would require such guidelines by October 1994. The substantive provisions of such guidelines may affect the extent to which it would be appropriate to characterize this DEIR as a master EIR and to use this DEIR to limit environmental review of subsequent projects pursuant to the master EIR provisions, which are currently set forth in Public Resources Code §21156 through 21159.4.

It should be noted, however, that the possible characterization of this DEIR as a master EIR does not "eliminate" subsequent environmental review. Under the master EIR statute, the lead agency for a subsequent approval must prepare a CEQA initial study to determine whether a subsequent approval may cause any significant environmental impact not examined in the master EIR and to determine whether the subsequent project was described in the master EIR. Depending on the outcome of this initial study, the lead agency may prepare a finding that the followup action is covered by a master EIR or may prepare a mitigated negative declaration or a followup EIR. All of these options require public notice.

P137 This comment states that the Project Description is ambiguous, raising again the question of what actions are covered by this DEIR. As stated above in Response P136, this DEIR is intended to serve as the CEQA document for the Draft Master Plan, Draft Specific Plan I, general plan amendments, zoning reclassifications, and approval of a development agreement. In addition, this DEIR may serve as a master EIR, or be used in connection with other CEQA provisions governing sequential subsequent reviews, as part of the environmental analysis for other approvals for this project. Other approvals for which this EIR may be used are listed in Table 3.10 and 3.11.

The comment states that the DEIR does not describe the anticipated subsequent projects adequately. As mentioned above, detailed CEQA guidelines governing master EIRs have not yet been promulgated.

The commentator suggests the Project Description must be expanded to adequately describe the development agreement, in particular, infrastructure improvements that could be required as

part of action on a tentative subdivision map application. The Development Agreement is currently being negotiated and is in draft form. However, the Development Agreement is designed generally to incorporate the land use and planning actions being taken in preparation of this DEIR (the Master Plan, Specific Plan I, the General Plan, and Development Title changes) and is not intended to address subdivision map applications or other followup approvals. The DEIR correctly states that the Development Agreement will incorporate the specific infrastructure improvements and mitigation programs the application is required to construct or establish. However, this refers to infrastructure improvements and mitigation programs that will be imposed in connection with the current level of approvals, not more specific infrastructure requirements that may be imposed at the subdivision map stage. The infrastructure improvements that may be required at the subdivision map stage must be consistent with the general direction that is provided in the General Plan amendments, Development Title text changes, Master Plan, and other approvals currently being considered, but those infrastructure improvements will be developed in substantially further detail when subdivision maps are considered and the level and scope of any subsequent environmental review in connection with those more detailed infrastructure improvements will be determined at the time of that followup approval.

This commentor also indicates that CEQA provisions for environmental review of residential projects consistent with a specific plan will not apply to the Mountain House project. The extent to which these provisions may apply to subsequent approvals will be determined at the time of those subsequent approvals. The commentor correctly points out that these provisions apply to residential projects, and some followup approvals may not qualify for applications of these provisions (which are set forth in CEQA guideline 15182 and Government Code §65457).

Finally, this comment seeks a detailed description of the proposed Specific Plan elements, rather than stating that the DEIR describes the Specific Plan in general terms. The comment also states it is not permissible to describe the project by reference to other documents. The DEIR describes the Specific Plan in considerable detail. The text and charts on pages 3-35 and 3-49 contain substantial and detailed information regarding development within the Specific Plan area, including the distribution, location, and intensity of various land uses. The charts show, for example, the land area within various sections of the Specific Plan, the number of dwelling units, and the number of dwelling units in such areas. The conceptual layouts show the size and proportions of various buildings, including the wastewater treatment facility, which is proposed to support the proposed land uses.

P138 This comment states that the DEIR inappropriately defers to future study certain environmental considerations, such as the development of a parks and open space plan. The comment cites the Sundstrom case where a County's negative declaration was found by a court to be invalid because the evaluation of environmental impacts and formulation of mitigation measures had been deferred to the future. The legal question of the degree to which Sundstrom, a court

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decision based on a negative declaration, can be debated by attorneys. This response focuses on the environmental issue raised by the comment.

The DEIR does not defer the analysis of environmental impacts or the formulation of mitigation measures. However, the DEIR evaluates impacts and proposes measures at a level of study and specificity consistent with the Master Plan, General Plan, Specific Plan, and Development Title actions that are proposed. Many of these impacts and mitigation measures will be addressed in more detail, as appropriate, when specific applications for tentative subdivision maps or other approvals are considered. At that time, more specific measures will be designed to carry out the more general mitigation measures that are identified in this DEIR.

The commentator specifically refers to the DEIR being inadequate because the impact analysis does not assess impacts on:

- Availability and replacement lands for existing wetlands. The DEIR Mitigation Measure M4.11-6 provides mitigation measures for the protection of jurisdictional wetlands.
- The feasibility of the proposed wastewater treatment facility. The DEIR does not assess the feasibility of the wastewater treatment facility. Rather, the DEIR provides an assessment of the potential environmental impacts associated with the construction and operation of the treatment facility. The detailed mitigation measures are included in mitigation measures M4.4.2-1. In addition, subsequent mitigation measures identifies detailed impacts from discharges to the intake of the Delta-Mendota canal, impacts of inadequate wastewater sludge treatment and disposal, and uncontrolled releases of hazardous materials used in the treatment plant operations.
- Adequacy of water supply for residential consumption. The DEIR discusses exhaustively the water supply for the project in Section 4.4.1. Based on the DEIR analysis, it appears that sufficient water supply would be available for the project. Due to future uncertainties associated with water supply in the State of California, this DEIR recommends review of water supply issues every five years.
- Loss of habitat of several protected species. This DEIR provides exhaustive and specific mitigation measures for the loss of habitat for protected species. The analysis under Impacts M4.11-1, M4.11-2, M4.11-3, and M4.11-4 provide detailed measures to revise the proposed project to ensure protection of protected species.
- Potential costs of soil remediation on obtaining financing for the project. Project financing is not a concern in the DEIR. The DEIR does, however, provide policies and implementation measures to ensure that the health of future site users would not be affected.

P139 It is correct that Appendix D of the DEIR identifies several areas in which compliance with the FSEIR mitigation monitoring program has not been demonstrated. It should be pointed out that the proposed Draft Master Plan and Draft Specific Plan provide greater specificity than the project evaluated in the Final SEIR and the Final EIR for the General Plan Amendment and that some of the previous mitigation measures are no longer pertinent or have been repeated in this DEIR.

P140 The commentor correctly points out that a Park and Open Space Plan has not been prepared as part of the Draft Master and Draft Specific plans. However, the Draft Master Plan provides for location and acreages of parks proposed on the site. On the basis of this information, the DEIR discusses compliance with General Plan policies on recreational facilities on the project site and identifies several significant impacts and associated mitigation measures to rectify particularly the lack of regional parks, the timing of park construction, and impacts to regional park facilities administered by other agencies/districts.

The DEIR does not identify school funding as a significant impact. Such issues are proposed in the Draft Master Plan to be resolved through negotiations with the applicable school districts during the preparation of a school facilities plan.

The Draft Master Plan proposes that detachment from the Tracy Rural Fire District be accomplished at the time of formation of the Community Services District (CSD). Funding for services would be through the CSD. For police protection, the DEIR identifies the schedule for resolving funding issues. Solid waste management for the project is proposed to comply with County requirements.

P141 See Responses P164 and P138.

P142 See Response P138 and see new paragraph added to page 4.4-19 of the DEIR on disposal of wastewater within the Primary Delta Zone.

P143 The DEIR preparers are unfamiliar with instances where detailed geotechnical studies are provided on a master plan or specific plan stage. The DEIR provides for recommendations on what should be determined in the geotechnical studies to be prepared at a later stage in the development process. It should be noted that issues associated with designing structures in areas susceptible to liquefaction during earthquakes and levee reconstruction is not unique to the proposed project site. Rather these are conditions in which construction occurs throughout the Bay Area and in the Central Valley. The mitigation measures provided in the DEIR are appropriate and no changes have been made in the text of the DEIR.

P144 The DEIR does not recommend preparation of a site assessment prior to "the next development permit," but rather prior to a development permit for a specific area of development. The DEIR correctly points out that past land uses could have affected the quality of the surface and subsurface soils. It is reasonable to recommend that prior to development, the exact nature

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of potential contaminants in the subsurface are identified rather than on a master plan or specific plan basis. It should be noted that this site does not exhibit significantly different past land uses than other developed/developing sites in the region and that site remediation has become an integral part of site development in former agricultural areas. The financing plans for the proposed project are not part of the project being evaluated in this DEIR.

P145 Comment noted. Refer to the Biological Resources section on pages 4.11-1 through 4.11-52 for a detailed discussion of San Joaquin kit fox, Swainson's hawk, other special-status taxa of concern, wetland resources, and other biological resources on the site. This discussion includes information on the occurrence of common and sensitive resources, potential impacts of the project, and detailed mitigation measures that identify necessary changes to the Draft Master Plan and proposed Habitat Management Plan (HMP), and other provisions to protect important biological and wetland resources.

As noted on page 4.11-25 of the DEIR, the Draft Master Plan would preserve most of the existing wetlands in their existing locations, minimizing potential adverse impacts and the need to develop a detailed wetland mitigation plan. Mitigation Measure M4.11-6 was recommended to ensure adequate setbacks from wetlands and coordination with jurisdictional agencies. Review by jurisdictional agencies would serve to verify proposed avoidance of wetland resources, and in limited instances where modifications would be unavoidable such as proposed creek crossing locations, that adequate provisions are made to mitigate any adverse impacts. The increased setback distances and need to verify proposed avoidance with jurisdictional agencies would serve to further protect these features.

P146 Comments are noted. San Joaquin County has determined not to adopt an agricultural mitigation fee at this time. Even if an agricultural mitigation fee were collected, the two previous EIRs and this DEIR note that the loss of approximately 3,600 acres of prime agricultural land is a significant unavoidable impact of the project.

P147 The DEIR authors disagree strongly with the commentor that this DEIR does not evaluate the "whole of an action." This DEIR evaluates all aspects of development of the site to a level of detail that is appropriate for a master and specific plan level. The commentor must realize that a master and/or specific plan is not a detailed subdivision application but provides general standards and guidance for site development. This DEIR recommends numerous additional objectives, policies, and implementation measures, as well as land use map changes to minimize environmental impacts where possible, or identify unavoidable adverse impacts, when no mitigation is possible. Also refer to Response P138.

P148 Additional environmental review may have to be conducted at later stages of this project, when further details of site development are available. Refer to Response 136.

P149 Comment noted. Refer to pages 4.11-25 through 4.11-31 for a detailed discussion of potential impacts and recommended mitigation for San Joaquin kit fox, and varied professional opinions

of biologists over loss of kit fox habitat. As noted on page 4.11-7, representatives of the USFWS and CDFG have indicated that, without adequate mitigation, project implementation would result in "take" of kit fox under the State and Federal Endangered Species Acts. The need and extent of mitigation lands necessary for loss of habitat would be negotiated with jurisdictional agencies, as acknowledged in Mitigation Measure M4.11-2 on page 4.11-28, and could include adjacent agricultural lands in Alameda County or alternatively the "Core Conservation Area" identified in the County's draft Habitat Conservation Plan for kit fox in western San Joaquin County. As indicated in Figure 4.11-6 on page 4.11-14, kit fox have been observed along the Delta-Mendota Canal approximately one mile to the west of the site. Similar agricultural habitat found on the site extends westward to the fox sighting along the Delta-Mendota Canal, indicating that the adjacent lands in Alameda County would be suitable for preservation and enhancement as a possible off-site mitigation area. Adequate land area is available in both of these locations to provide for the maximum estimated mitigation acreage of up to 7,611 acres.

As required by Mitigation Measure M4.11-2(a), a copy of any and all fully executed permits and/or management agreements must be submitted to the San Joaquin County Community Development Department prior to any habitat modifications. This would ensure that the concerns of the USFWS and CDFG are fully addressed before any project-related habitat modification or loss were to occur. Mitigation Measure M4.11-2(b) identifies necessary changes to the Draft Master Plan to acknowledge the likely need to compensate for loss of kit fox habitat, and Mitigation Measure M4.11-2(c) specifies changes to the proposed pre-construction and construction protocol. Given the framework for necessary revisions to the Draft Master Plan, and the proposed pre-construction and construction protocol, and the requirement for submittal of any required permits and/or management agreements before any habitat modification is permitted, the suggested delay in certification of the DEIR until the ultimate mitigation provisions are further defined by jurisdictional agencies is unwarranted.

With regard to Swainson's hawk, Mitigation Measure M4.11-3 provides a detailed framework for revising the proposed HMP, addressing concerns expressed by the CDFG regarding lack of conformance with the *Draft Mitigation Guidelines for Swainson's Hawk*. These include the total required mitigation acreage for the project, mitigation credit prescription ratios, acceptability of establishing mitigation credit for nesting habitat, inaccurate information on nesting territories and mitigation for on-site nest locations, appropriate crop types and minimum ratio of mitigation lands devoted to alfalfa, restrictions on the use of rodenticides, and the need for details regarding phasing and monitoring of the various mitigation options and how they would be coordinated as part of the overall HMP. As required by M4.11-3(a), a copy of the fully executed habitat management agreement with the CDFG must be submitted to the San Joaquin County Community Development Department prior to any habitat modifications. This would ensure that the concerns of the CDFG are fully addressed before any project-related habitat modification or loss were to occur. Given the framework for necessary revisions to the proposed HMP identified in M4.11-3(a), details regarding necessary revisions to the proposed HMP specified by the CDFG in their comments on the DEIR, and

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the requirement for a completed habitat management agreement before any habitat modification is permitted, the recommended delay in certification of the EIR until the HMP is revised is unwarranted.

- P150 The commentator incorrectly summarizes Mitigation Measure M4.2-1(f). This mitigation measure, as well as the other similar measures contained in the General Plan and Development Title Consistency section of the DEIR state that, in instances of possible inconsistency between the Draft Master Plan and the County General Plan or Development Title, the County General Plan (or Development Title) should be amended or the inconsistent policy in the Draft Master Plan should be changed to make it consistent with the General Plan. Mitigation Measure M4.2-1(f) recommends that a General Plan Amendment should be adopted to allow new communities to deviate from the transportation Level of Service (LOS) standards or, alternatively, the Draft Master Plan policies (and the project) could be changed to conform with the General Plan LOS standards.

The mitigation measures in this section of the DEIR have been written so that, if a General Plan Amendment, or series of amendments, were adopted to mitigate any identified plan inconsistencies, then the General Plan Amendment should be phrased so that it applies only to a limited number of development proposals. Mitigation Measure M4.2-1 recommends that, if the County General Plan were amended, then the specific amendments would either apply only to the Mountain House new community, or would apply only to "new communities or to projects that have an adopted Master and Specific Plan."

This latter qualification effectively limits the application of the amendment(s). The proposed project is the only "new community" designated in the unincorporated area that is seeking approval of a master and specific plan at this time. The County General Plan 2010 has designated two other new communities, Riverbrook and New Jerusalem. The inclusion of these two other new communities in the General Plan is currently under litigation. The developers of the two other new communities have not prepared or submitted master and specific plans to the County for approval. No other development projects in the unincorporated area have received approval for their own master or specific plans. Thus, any proposed General Plan Amendments that are adopted as recommended in Mitigation Measure M4.2-2 would only apply to the project, to the other two inactive new communities, or to new community or large development projects that may be approved by the County in the future.

Regarding potential amendments to the County Development Title to resolve inconsistencies, see Response P151.

- P151 Potential inconsistencies between the County Development Title and specific Master Plan regulations are listed in Table 4.2-2. As in the case of potential inconsistencies between the County General Plan and Master Plan policies, if the amendment(s) were adopted to the Development Title, the amendment(s) could be phrased to apply only to the proposed project. For the reasons cited here and in Response P150, it is anticipated that approval of any

amendment(s) to the County General Plan and/or the Development Title will not be applicable to other development projects and thus, would have insignificant, if any, environmental impacts. In addition, under General Plan policy, master and specific plans prepared for any new communities would require environmental review.

It should be noted that some of the proposed Development Title Amendments are logical for countywide application. However, County staff will process this group of amendments separately in the future and they will be subject to additional environmental review.

P152 Refer to Response P138.

P153 The DEIR has not attempted to speculate about where in the State, or outside the State, construction workers for the project may be recruited. It is very difficult, if not impossible, to forecast whether construction workers hired by the project would be highly paid unionized workers, or whether the workers would come from primarily non-unionized contracting companies. The applicant has estimated that up to approximately 2,000 direct construction jobs would be created annually over a period of 20 to 25 years (page 4.9-6 of the DEIR). Construction job estimates have not been included in the Jobs/Housing goals.

The DEIR text has been amended to include a discussion of construction workers on page 4.95. If it can be assumed that construction workers for the project will be a combination of local, Northern California workers and some out-of-State workers, then no significant impacts can be anticipated. Construction workers that already reside in San Joaquin County, the San Francisco Bay Area, or other Northern California counties already pay State income and local property taxes in the jurisdictions where they live, either through direct taxes (if they are homeowners) or indirectly through a rent payment to the property owner. If construction workers were brought in from outside California and they were accompanied by their families, the families would likewise pay property taxes either directly or indirectly. If they became permanent residents, they would also pay State income taxes. Property tax revenues, coupled with sales tax revenues, user fees, and special State school funding, pay for the majority of the social services that are cited by the commentor.

As already noted in Responses L15, L54, and L56, the DEIR has not analyzed fiscal and financial impacts related to the project, including fiscal issues related to impacts on the local County budget and its public services. The Mountain House Draft Public Financing Report (Taussig and Associates, 1994) analyzes these issues on a year-by-year basis for a High Growth and Low Growth buildout scenario. That document does not identify any potential funding shortfalls for either of the development schedules, although the analysis indicates a negative fiscal impact to the County General Fund for the initial years of both the Low Growth and High Growth development schedules. In terms of the fiscal impacts of the project, if the Low Growth absorption schedule were experienced by the project, the fiscal impacts to the County General Fund are projected to be \$3.8 million at buildout, while the impact under the High Growth schedule would be \$5.5 million at buildout. Negative fiscal impacts to the

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County General Fund are anticipated during the first two years of the High Growth Scenario and during the first three years of the Low Growth Scenario.

Also refer to Response L127, regarding impacts related to construction traffic.

P154 Refer to Responses P136, P138, and P139.

P155 Comment noted. This DEIR has not identified any mitigation measures that would result in environmental impacts.

P156 Refer to Responses P162 through P172.

P157 The DEIR recognizes the growth-inducing potential of the proposed project from land use conflicts with adjacent agricultural land uses and construction of sewage treatment plants. However, mitigation measures are provided to minimize growth pressures on the northern, eastern, western, and southern site boundaries; these include limitations on extension of services and buffers along agricultural site boundaries. It should also be noted that the demand for additional residential development in this portion of San Joaquin County is uncertain, taking into consideration the growth planned for in the County's General Plan and the City of Tracy. See also Response L5.

P158 Alleged deficiencies in the list of projects in Table 6.1 of the Cumulative Impacts section are addressed in Response P172 below. In addition, the commentor states that the cumulative analysis should include buildout of General Plans of westside cities, including Tracy, Manteca, Lathrop, Patterson, and Newman. The Cumulative Impacts section of the DEIR specifically examined buildout of the Tracy, Lathrop, and Manteca General Plans (see Table 6.2). Twenty year growth allowed under the individual General Plans for the cities of Stanislaus County is included under land use projections that were used in the multi-regional travel demand transportation model, as provided by the Stanislaus Area Association of Governments and modified by Economic & Planning Systems (see Appendix F of the DEIR).

A "systematic analysis of the other major new communities proposed for San Joaquin County" was included in the Final EIR for the San Joaquin County Comprehensive Planning Program (May 1992). The FEIR for the updated County General Plan analyzed in detail impacts related to Mountain House and four other proposed new communities. Cumulative impacts related to the other two new communities that have been approved in the unincorporated area, Riverbrook and New Jerusalem, as well as projected 2010 growth for the seven cities in San Joaquin County, have been analyzed in key sections throughout this DEIR and in the two previous EIRs for the Mountain House General Plan Amendment. Updated growth projections for other major development projects or plan amendments, such as the Tracy Urban Management Plan and the Gold Rush City project in the updated Lathrop General Plan, have also been included in this and previous environmental reports.

For example, the transportation analysis in the DEIR projected 2010 traffic volumes for regional highways and local arterials based on cumulative growth over the next twenty years that includes construction of both the Riverbrook and New Jerusalem new communities. Additionally, other major development projects in adjacent counties have also been incorporated into the 2010 growth projections that were used (e.g., North Livermore and east Dublin in Alameda County). Because the air quality, noise, and other technical sections relied on the transportation analysis, by extension these sections of the DEIR have also taken into account the cumulative growth impacts of the Riverbrook and New Jerusalem new communities, as well as other major growth in the County and in the region.

P159 The applicant has provided extensive comments on the Mitigated Alternative in Responses P79 through P108. The applicant does not appear to view the Mitigated Alternative favorably.

P160 This DEIR provides an environmental analysis of the proposed project throughout its buildout period. Since this project pertains to master and specific plans, there are details of the proposed development that are not available at the current time. At such time as detailed applications are submitted to the County for approval, additional environmental review will take place.

P161 This DEIR includes all information necessary for the decision-makers to make an informed decision on the environmental impacts associated with the proposed project at a level of detail commensurate with a planning document. Recirculation would be required if new information became available during the CEQA process. No new significant information has been developed since the publication of the DEIR, nor have additional significant impacts been identified from the comments received on the DEIR, nor has any new information shown a substantial increase in the severity of a previously identified impact.

P162 Comment noted. Refer to Response P149. Any revisions to the project plans to mitigate identified impacts on taxa of concern through either on- or off-site habitat preservation and enhancement would serve to alleviate adverse impacts of the project as currently proposed. Negotiations and requirement for completion of any necessary permits and/or habitat management agreements recommended in Mitigation Measures M4.11-2 and M4.11-3 would ensure that specific provisions are acceptable to jurisdictional agencies.

P163 The need for additional surveys regarding presence of special-status taxa has been limited to two areas of concern. The first type of additional survey has been recommended to verify the presence or absence of critical habitat features prior to construction, as recommended in Mitigation Measures M4.11-2(c) and M4.11-4(b). The second pertains to special-status taxa associated with Old River that would only be affected if direct improvements or modifications to the levee bank and aquatic habitat were to occur, such as the proposed marina. It is uncertain whether any of these improvements would ever be made, and requiring this additional study at this phase of environmental review would be unwarranted. Conditions along the river corridor, including occurrence and use by any taxa of concern may change

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considerably between now and some point in the future when specific improvements along Old River may be proposed. Additional study has been recommended in Mitigation Measure M4.11-4(a) to determine the presence or absence of taxa of concern along the river corridor, and to provide for preparation of specific habitat protection plans if populations are encountered.

Where a habitat protection plan is necessary to protect any identified populations, the plan must be prepared in consultation with and meet with the approval of the USFWS and CDFG prior to approval of the first specific plan that could affect the Old River habitat. Mitigation Measure 4.11-7 would require elimination of the proposed 60-acre marina unless detailed study demonstrates that the potential impacts on biotic resources could be mitigated to a less-than-significant level. These mitigation measures are clear and specific with regard to additional surveys, the need for an agency-approved habitat protection plan for any taxa of concern encountered, and elimination of the proposed marina if impacts cannot be mitigated to a level that is less than significant.

P164 BBID would make available 9,413 acre-feet per year and riparian water rights would be able to provide a minimum of 2,050 acre-feet per year. Along with Mitigation Measure M4.4.1-3 in the DEIR, an adequate water supply for the project has been demonstrated.

BBID has signed two agreements that would ensure a year-round water supply for the project. The first agreement, between BBID and the future CSD, provides for BBID to supply up to 9,413 acre-feet per year to the project. The second agreement, between BBID and DWR, allows BBID to withdraw up to 4,000 acre-feet per year during the winter months. The latter agreement just changes the timing of the diversion of the 4,000 acre-feet per year, but does not change the total volume available to the project from BBID (9,413 acre-feet/year).

Annexation to BBID for those portions of the project requiring water supplied by BBID is not anticipated to be a problem since the sphere of influence of BBID has already been expanded to include the entire project site.

The San Joaquin County Counsel has reviewed and generally concurs with the applicant's findings on existing riparian water rights within the project. See the new paragraph describing the Counsel's opinion following Impact M4.4.1-3 in the FEIR. The confirmed water available to the project is approximately 11,500 acre-feet (9,413 acre-feet per year from BBID and a minimum of approximately 2,050 acre-feet per year from riparian rights), which would be sufficient to serve the demand at project buildout provided the applicant's projections are current. Mitigation Measure M4.4.1-3 requires that the actual water demand be monitored and implementation of measures to reduce demand if necessary. See Response L85.

The SWRCB and USEPA efforts to adopt water quality standards for the Delta, and subsequent SWRCB reevaluation of existing water rights, does not compromise BBID commitment to provide water to the project. BBID's commitment is clearly stated in the

Water Service Agreement. It would be inappropriate for the DEIR to dictate the contents of the contingency plan required by Mitigation Measure M4.4.4-1(a); it is appropriate for the DEIR to require the contingency plan to ensure an adequate water supply since the lack of the supply would have environmental impacts.

- P165 The level of treatment required for the wastewater is dependent on the intended disposal/reuse method. The proposal in the Draft Master Plan and the Draft Specific Plan I to provide facultative lagoon treatment for the initial phase of the project is appropriate for the proposed method of disposal: agricultural irrigation. If reuse of the wastewater where human contact were possible or if discharge to Old River were done, tertiary treatment would be appropriate.

Reuse of the wastewater on the project site will likely be implemented at least during the initial years of the project. One of the alternatives considered is to irrigate the land between Byron Road and Old River during development of Specific Plan I. Reuse on the project site in developed areas may be implemented after Specific Plan I when the treatment process would be upgraded. The description of the on-site disposal option after development has been revised on page 4.4-20 of the DEIR and Mitigation Measures 4.4.2-1(n), (o), and (p) have been added

- P166 Off-site sludge disposal will not be necessary until treatment by activated sludge becomes operational. This may not occur until Specific Plan II. Buildout of Specific Plan I is expected to occur between 7 to 14 years, during which time wastewater sludge treatment technologies and disposal regulations would likely evolve. It would be unreasonable to require a definitive sludge disposal plan at this stage of the project.

- P167 The purpose of the DEIR is to identify potential environmental impacts associated with the proposed project (e.g., chlorination of wastewater), but not to dictate what must be done. Chlorination is still a common method of disinfection and could be used safely. The Draft Master Plan does propose to use ozonation as the primary method of disinfection.

- P168 The DEIR includes estimates of what the fair share contributions of the applicant should be to construct major improvements to County arterials, and State highways and interchanges (see Tables 4.12-7 and 4.12-9). The commentor incorrectly summarizes the LOS standards that have been adopted by San Joaquin County. The County LOS standards are LOS D for State highways and for all intersections, and LOS C for County roadways. As already noted in previous responses, the DEIR does not identify or analyze the costs of all transportation improvements required to serve the project; financial estimates and impacts related to infrastructure financing are included in the Mountain House Draft Public Financing Report (Taussig and Associates, 1994).

The comment recommending that the County not enter a development agreement until the full feasibility of the project has been demonstrated is noted. San Joaquin County General Plan 2010 policies require that a new community must prove that no negative fiscal impacts will accrue to the County.

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It is correct that the transportation analysis indicates that portions of the I-580 freeway will experience LOS F in the year 2010 with or without the project. The only arterial roads that would experience LOS F with the project, after mitigation (widening of key arterials), would be Altamont Pass Road, which would be impacted by the diversion of vehicles from the parallel I-580 freeway.

The DEIR discusses how traffic flow on these affected roadways would be impacted on page 4.12-27. The DEIR states that:

The excess traffic demand on I-580 would cause spreading of the peak period in the peak direction of travel, resulting in a lower percentage of the daily traffic occurring in the peak hour than projected by the Travel Model. In the AM period, excess demand would cause standing queues on the east side of the Altamont Pass, limiting the rate of traffic entering the Tri-Valley. In the PM, queues would occur on the west side of the Altamont Pass and reduce eastbound traffic flows on I-205 farther east.

The DEIR contains an extensive analysis of the specific types of housing and jobs that are planned for the project. The Population, Housing, and Employment section of the DEIR analyzes the ability of the project to reach the jobs/housing and affordable housing goals that have been proposed by the applicant. In addition, Appendix 3-B of the Draft Master Plan includes a technical discussion of the assumptions behind the project's Jobs/Housing and Affordable Housing programs.

The DEIR contains a discussion of employment and residential absorption rates in both the Population, Housing, and Employment and Transportation sections. Analyses in both sections examine impacts related to Full Employment and Expected (reduced) Employment land use scenarios for Specific Plan I.

The Mountain House Draft Public Financing Report analyzes the financial and fiscal impacts on a year-by-year basis for both a High Growth and Low Growth absorption schedule. The Draft Public Financing Report specifically examines the use of various financing instruments by the project to maximize any impacts to the County General Fund.

P169 Comment noted. As previously noted in Responses L15, L54, and L56, the DEIR has not analyzed financial impacts related to the project's ability to provide all required public infrastructure and services, and the proposed component of affordable housing. However, the Mountain House Draft Public Financing Report (Taussig and Associates, 1994) analyzes these financial issues on a year-by-year basis for a High Growth and Low Growth buildout scenario, both of which include the Affordable Housing Program. Refer to these previous responses for a summary.

Specifically, the Draft Public Financing Report examines the financial feasibility of the project (looking at the burdens placed upon homeowners and other property owners to pay off Mello-Roos bonds and other financing instruments), based upon the project's land use and product cost estimates. The result of the burden analysis indicates that the annual burden on residential land use (the amount of property, Mello-Roos, and other taxes the average homeowner would be required to pay) would be slightly higher (about 1.45 percent of assessed value) under the Low Growth scenario than under the High Growth scenario (about 1.56 percent of assessed value). There is no indication in the analysis that either the Low Growth scenario would render any of the financing programs or the Affordable Housing Program infeasible.

P170 A comprehensive analysis of how the projected household incomes of future Mountain House families would match up with planned housing costs is included in Appendix 3-B of the Draft Master Plan. Further details are provided in technical reports prepared by Taussig and Associates on behalf of the applicant. The DEIR preparers and County staff evaluated all of the assumptions and methodology that was used in the analysis for reasonableness. The DEIR analysis focused on whether the proposed Jobs/Housing and Affordable Housing goals could be met after concluding that the projected income distribution and housing cost estimates for the new community were reasonable.

P171 No specific emission rate has been given for stationary source emissions because the number, type, source strength, and net effect on the regional air pollutant burden is speculative. Any new stationary sources would be subject to the environmental review process and permitting process of the San Joaquin Valley Unified Air Pollution Control District. The inclusion of a quantified estimate of stationary source emissions would not modify the conclusions of the DEIR with respect to air quality: that the proposed project would have a significant adverse impact on the air quality in San Joaquin County and the San Joaquin Valley Air Basin, both during construction and during operation.

Mitigation Measure M4.13-1 proposes that the County develop an air quality mitigation fee program for projects that are unable, through regular mitigation, to reduce impacts by 25 percent. The goal of 25 percent represents a reasonable, attainable goal for new development, but attaining this level of mitigation does not imply that impacts would be eliminated. Since the County has yet to impose such a mitigation program, there currently is no requirement for a 25 percent reduction in project impacts.

Countywide estimates of control measure effectiveness in reducing the overall emission inventory do not apply to individual projects. Attempts to quantify the effectiveness of various transportation and land-use mitigation for air quality impacts have shown widely variable results, but in most cases the potential for reduction of impacts by any one control measure is no more than a few percent. These measures, however, are currently the most effective measures available for indirect sources, such as the project. The combined effectiveness of a comprehensive program of air emission reduction using building design, TDM, site planning, alternative fuels, and the other strategies described in the Draft Master Plan and DEIR is likely

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to be in the range of 15 to 25 percent. This is far short of the 90 percent reduction that would be needed to reduce the impacts of Specific Plan I to a level of insignificance or the 99 percent reduction that would be required to reduce the impacts of the Draft Master Plan to a level of insignificance.

The commentor states that the mitigation program regarding jobs and housing should be substantially expanded to include various incentives. The Draft Master Plan and DEIR preparers have not included a program to require potential employers to relocate existing employees to the project site because it could have the opposite desired effect of discouraging new firms from locating in the project, if they were required to transfer existing employees from other offices. The DEIR preparers do not agree with the implication of the commentor's statement that on-site jobs would be better created by the transfer of employees from elsewhere, rather than encouraging new hires from on-site residents and other unemployed persons from San Joaquin County. Regarding housing assistance incentives, the applicant's Affordable Housing Program (as detailed in Appendix 3-B of the Draft Master Plan) specifically states that employers will be encouraged through seminars offered by Community Services District staff or the Board of the community's Housing Trust Fund to extend incentives to their employees by contributing to the Housing Trust Fund; by providing matching funds for down payments; or by using employee pension funds or other funds as temporary collateral against mortgages.

Appendix 3-B contains a detailed discussion that analyzes the match between projected household income levels in the community with the affordability of housing types planned in the community. The Draft Master Plan proposes that progress in reaching the Jobs/Housing and Affordable Housing goals be monitored through the submission of annual reports, with specific "best case" and "minimum" ratios to be measured at 4,000 unit increments of the project. However, the Jobs/Housing monitoring policies contained in the Draft Master Plan do not limit monitoring only to those 4,000 unit milestones, but state that the Board of Supervisors may review the progress of the community in meeting minimum jobs/housing goal at any time, by interpolating for individual years between the 4,000 unit milestones (see Implementation d) under Objective 1 in Jobs/Housing and Affordable Housing, Appendix C of the DEIR). The DEIR preparers do not agree with the commentor's characterization of the enforcement program as "retroactive" instead of "proactive," because monitoring will occur on an annual basis and because the project is required, and has proposed, to implement an aggressive Job Creation Program (see Appendix 3-A and associated policies in the Draft Master Plan).

We do agree with the commentor's statement that transportation and air quality impacts of the Full Employment scenario for Specific Plan I is greater than the Expected Employment for Specific Plan I. The reason that transportation impacts are greater under the Full Employment scenario is because Specific Plan I includes one-half of the job generating lands for the total project, but includes only one-quarter of the total housing units. Under Full Employment of Specific Plan I, there would be a theoretical imbalance with too many jobs (9,696 jobs) for

the number of on-site housing units (4,139 units). The percentage of internal trips would be about the same for the two scenarios (31 to 32 percent internal trips during peaks hours as indicated in Tables 4.12-15 and 16 in the DEIR). The Full Employment scenario would create slightly fewer outbound commuter trips than the Expected Employment scenario, but the number of inbound commuter trips would be higher for the Full Employment scenario because the almost 10,000 on-site jobs are attracting many employees from outside the project site that cannot find housing on the site.

The comparison of internal and external trip generation for the Full Employment versus the Expected Employment scenario is included because it is the "worst case" scenario required to be studied. However, the Full Employment scenario is unlikely to occur, since Specific Plan I jobs will be created over a much longer period than the housing. In all likelihood, housing will be built under Specific Plan II and III while the Full Employment jobs are still being created. If additional housing is provided on-site under future specific plans while the 10,000 jobs allowed under Specific Plan I are being created, there will be a better balance between on-site job and housing opportunities, and commuting into the community will be decreased.

P172 The commentor has submitted an obviously outdated cumulative projects list from Stanislaus County, and asks why each of the projects was not included in Table 6.1 of the DEIR. The list is replicated below, with brief comments about each development project.

Stanislaus County

Mayes Ranch:	This "new town" project has been withdrawn.
Lakeborough:	This "new town" project is inactive. The project's Final EIR has not been certified as of this date.
Grayson Park #3:	The 633-lot subdivision is included in countywide growth projections, but was not deemed large enough to call out separately in Table 6.1.
North Salida:	This large redevelopment project by Stanislaus County is inactive.
Mapes Ranch:	This "new town" project has been withdrawn.
Boatwright property:	No data. Unclear what this refers to.
Del Rio Community Plan:	This plan has been approved.
Kaufman & Broad:	Unclear to which project this refers.
Village One Specific Plan:	Approved by the City of Modesto. Included in the countywide growth projections supplied by the Stanislaus County Association of Governments (SAAG) and incorporated into the DEIR traffic modeling.
Stan. Motorsport:	This project has been withdrawn.
Williams (sic) Ranch:	Wilms Ranch project was approved and litigated. It is active.
Riverbank Village:	This project part of the Riverbank General Plan. Included in countywide growth projections supplied by SAAG.

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Newman General Plan: Included in countywide growth projections supplied by SAAG.

San Joaquin County

Liberty, Forest Oaks: Two "new towns" denied by County in 1992.
Spanos Park: Subdivision approved by City of Stockton in late 1980s. Included in countywide growth projections prepared by San Joaquin County and COG and incorporated in the DEIR traffic modeling.

Escalon Golf Course: Unclear what project this is. No project of this size has ever been approved in Escalon.

Collier Ranch: "New town" project that was never formally submitted to the County.

Rancho San Joaquin: Precursor to the New Jerusalem new community. Withdrawn.
Tracy Highlands: Formal application never submitted. Not in Tracy General Plan.
Dell' Aringa Golfand: Withdrawn.

Neumiller & Beardslee; Attorneys for Trimark Communities

P173 The comment states that CEQA requires an analysis of substantial impacts to actual habitat of species, not potential habitat. Although there are several provisions in the CEQA Guidelines governing habitat and wildlife, these provisions do not specify whether the analysis should be limited to actual habitat or should extend to potential habitat. For example, the definition of endangered species for CEQA purposes (Guideline 15380), the mandatory finding of significance for wildlife impacts (Guideline 15065(a)) and the designation of projects of statewide, regional, or areawide significance (Guideline 15206) all refer to wildlife "habitat" but do not refer to actual or potential habitat. In addition, there has been substantial controversy and legal dispute over this question under both the Federal and State endangered species laws.

The analysis discusses both actual and potential habitat for several reasons. The biological impact analysis refers both to endangered species law as well as to County General Plan policies, including policies that call for restoration of wildlife habitat (page 4.11-11). Also, given the possibly uncertain legal issues relating to potential habitat, the more environmentally protective approach, and the approach that maximizes CEQA's public participation goals is to discuss impacts and mitigations in a broader sense.

P174 Ultimately, the Board of Supervisors and responsible agencies such as the Department of Fish and Game will determine what level of mitigation is feasible and proportional.

P175 The comment correctly notes that CDFG and the USFWS primarily play a consultative role in the CEQA process, and that CDFG is a trustee agency. As stated above, however, the mitigation measures are proposed as a result of several factors, including both consultation with wildlife agencies as well as County General Plan policies.

P176 Willow forms the dominant riparian species in a narrow band along Old River and intermittently along Mountain House Creek, as noted on page 4.11-5. This includes both native and non-native willow species along Old River, as well as dense thickets of wild rose and blackberry, which provide important protective cover for wildlife. The presence of an active Swainson's hawk nest in a willow tree along Old River, as noted on page 4.11-18 and indicated in Figure 4.11-5 on page 4.11-10 of the DEIR, provides an indication of the importance of the willow trees and shrubs to avian species, which is somewhat magnified by the lack of well-developed riparian woodland along this segment of Old River.

P177 As stated on page 4.11-5, wetlands are recognized as important features on a regional and national level due to their high inherent value to fish and wildlife. Although past disturbance has "severely limited the habitat value" of wetlands and waters of the U.S. on the site, they still provide important resources to wildlife. The intermittent willow-scrub along Mountain House Creek and the bank of Old River, and emergent stands of cattail along Mountain House and Dry creeks provides some of the only protective cover in the surrounding agricultural lands. These areas may serve as nesting substrate and breeding habitat for special-status taxa such as black-shouldered kite, marsh hawk, tricolored blackbird, and western pond turtle. Suitable habitat for each of these species includes areas of freshwater marsh, seasonal marsh, and other wetland habitat, as indicated in Table 4.11-1 on page 4.11-8.

Table 4.11-1, entitled "Special-Status Species Known or Suspected to Occur in the Project Vicinity," is intended to identify all species that have been reported from or suspected to occur in the project vicinity. The reported use or potential for occurrence of these special-status taxa is summarized on page 4.11-7 and discussed in detail for the two taxa of greatest concern, San Joaquin kit fox and Swainson's hawk, on pages 4.11-12 through 4.11-20. As summarized on page 4.11-7, the site is not believed to provide critical habitat for any of the remaining taxa of concern (i.e., Aleutian Canada goose, white-faced ibis, mountain plover, prairie falcon, and peregrine falcon), most of which are wintering migrant species that may occasionally use flooded cropland areas (including those on the project site) for foraging. Most of these species would not even be suspected to occur in the project vicinity in the spring months when surveys were performed during preparation of the original DEIR in 1991 referred to by the commentor. They should, however, not be removed from the list of known or suspected taxa of concern from the project vicinity as suggested by the commentor.

P178 Comment noted. Use of the word "critical" in the Biological Resources section of the DEIR reflects the level of importance the site provides to certain taxa of concern, generally when breeding habitat has been observed or is suspected to occur on the site. The California Environmental Quality Act is a separate act from the Federal Endangered Species Act, referred to on page 4.11-7. The word "critical" has not been identified as having a specific definition under Chapter 2.5 of CEQA or Article 20 of the CEQA Guidelines, and its use in the DEIR is not intended to be misleading. A determination on the presence of "critical habitat" for one or more taxa listed as threatened or endangered under the Federal Endangered Species Act

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would be made by representatives of the USFWS in reviewing project compliance with the provisions of that Act.

P179 Refer to Response P177.

P180 Comment noted. The proposed HMP was revised again during the public review period on the DEIR (Zentner & Zentner, 1994b). Changes to the proposed HMP include acknowledgement that the proposed project would impact up to an estimated 3,860 acres of the site, which provide suitable crops for Swainson's hawk foraging, and incorporation of recent information on nesting activity on the site and surrounding area observed during the 1994 breeding season. While the revised HMP now recognizes that most of the site provides suitable foraging habitat that would require mitigation if lost to proposed development, the relevant assumptions, policies, and implementations of the Draft Master Plan and many of the provisions in the HMP have not been revised as recommended in Mitigation Measure M4.11-3 on pages 4.11-36 through 4.11-38. In response to the comment and receipt of the revised HMP, the text of the DEIR has been revised accordingly on pages 4.11-31 through 4.11-39 to provide an updated review of the HMP and conclusion regarding adequacy of proposed mitigation. No additional significant impacts have been identified and no significant revisions to the recommended mitigation measures have been made.

P181 Comment noted. The kit fox range map prepared by the USFWS in 1990 is not intended to represent a definitive boundary of occupied or unoccupied habitat for this subspecies, which would be determined through detailed review by the USFWS. It should be noted that in 1991 and 1992, kit fox sightings were reported in the Black Diamond Mines Regional Preserve area several miles outside the mapped range boundary, indicating the general nature of the mapped range and potential for occurrence outside this boundary. In response to the comment, the text has been revised on page 4.11-12 of the DEIR.

P182 The discussion on page 4.11-12 of the DEIR was intended to show the uncertainty over potential for occurrence of kit fox on the site, as demonstrated by differing opinions over the origin of the print on the sooted track plate obtained in 1991, which then led to the survey effort by BioSystems in 1992. One of the two independent consultants who reviewed the print in 1991 at the request of Dr. McGinnis was Virginia Getz, Senior Biologist with the consulting firm of Jones and Stokes Associates. Ms. Getz determined the print to be "a probable kit fox track" (Bell, 1994). As noted by the commentor, BioSystems did conclude that the print from the track plate was "more likely to be a gray fox track due to the distinct outline of the hind pad." Again, the differing opinions over the origin of the print serves as an example of the varied opinion of biologists regarding kit fox occurrence on the site.

P183 Comment noted. A detailed discussion of the potential for occurrence of kit fox on the site is provided on pages 4.11-12 through 4.11-15, including the varying opinions of biologists regarding kit fox use, the significance of the potential impacts of the project, and the

appropriate level of mitigation. Conclusions regarding the potential impacts of the project on kit fox is provided on pages 4.11-25 through 4.11-28.

P184 A discussion of the findings of the BioSystems study is summarized on pages 4.11-12 through 4.11-14 of the DEIR, which includes identification and definition of "potential" and "possible" kit fox dens. The BioSystems report did not conclude that the observed dens on the site were occupied by red fox, that red fox density in the area was "significant," or that the presence of red fox preclude the occurrence of kit fox, as suggested by the commentor. As noted on page 4.11-13, other canid species may have a negative effect on kit fox use of suitable foraging habitat, but the presence of coyote, red fox, and domestic dogs does not necessarily preclude kit fox from an area.

P185 Comment noted. As discussed on page 4-1 of the BioSystems report, the kit fox observed by Dr. McGinnis approximately one mile west of the site was observed during March when kit fox have typically established their territories and are not dispersing to other areas. BioSystems concluded that this was most likely a resident animal, not merely dispersing, and as stated on page 5-6 of their report that the "project site is well within the foraging range of this particular kit fox and is also within the dispersal range of other known kit fox populations to the west" (BioSystems, 1992).

P186 Comment noted. The position of the applicant and the biologists retained by the applicant regarding kit fox is summarized on page 4.11-26. As noted further on page 4.11-27, this position is the opposite of that expressed by biologists with the USFWS and CDFG consulted during preparation of the DEIR, and with the conclusions made during the independent assessment made by BioSystems in 1992.

The comment further sets forth the applicant's position that ultimate determination of impacts and mitigation will be made by the Board of Supervisors and that the CEQA analysis may not determine the legal question of whether there is a "take" under the endangered species laws. This comment relates primarily to the Board's authority and discretion in considering the DEIR and deciding whether to approve the project, rather than the environmental analysis in the DEIR. As noted in the comment, the Board must consider this issue pursuant to CEQA and also pursuant to the County's General Plan policies on habitat preservation and restoration. However, in addition to the Board of Supervisor's role, the DEIR under CEQA must propose mitigation measures for identified significant impacts, as this DEIR did for habitat impacts.

Mitigation Measure M4.11-2 has been structured to ensure that the project complies with the San Joaquin County General Plan 2010 policies regarding habitat protection and possible provisions of the State and Federal Endangered Species Acts. This includes further negotiation with representatives of the USFWS and the CDFG, submittal of any and all fully executed permits and/or management agreements prior to any habitat modification, and revisions to the proposed pre-construction and construction protocol. Given the major discrepancy between the mitigation requirements recommended by jurisdictional agencies and the limited mitigation

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proposed in the Draft Master Plan, this mitigation measure was intentionally linked to further negotiation with representatives of the USFWS and the CDFG to ensure that any action by the County Board of Supervisors with regard to CEQA review and possible conditional approval of the project would not contribute to an unlawful taking of a threatened or endangered species.

- P187 Comment noted. A detailed discussion of information regarding occurrence of kit fox on the site is provided in the Biological Resources section of the DEIR, which summarizes information on general kit fox natural history, results of studies conducted during preparation of the original FEIR, results and conclusions from the subsequent study conducted by BioSystems in 1992, the position of biologists retained by the applicant regarding kit fox occurrence and use of the site, further comment and input from BioSystems regarding the reports and reviews by the applicant's biologists, preliminary conclusions from representatives of the USFWS and the CDFG obtained during preparation of the DEIR, and inadequacies in the Draft Master Plan regarding mitigation of potential impacts on kit fox. The DEIR clearly concludes that the project as proposed would have a significant adverse impact on kit fox, and that mitigation is necessary.
- P188 Comment noted. The County's draft Habitat Conservation Plan for San Joaquin kit fox was discussed on page 4.1-15 to provide background information on an alternative location for possible mitigation lands recommended in Mitigation Measure M4.11-2 on page 4.1-28. Although the County's Habitat Conservation Plan was never completed or adopted, the draft does identify a "Core Conservation Area" that could serve as a possible location for any habitat compensation if required through further negotiations with jurisdictional agencies; furthermore, it represents best available information and is used as such in the DEIR.
- P189 The discussion referred to on page 4.11-18 identifies the two criteria used by the CDFG in determining whether a particular site provides suitable foraging habitat for Swainson's hawk, taken from the CDFG's *Draft Mitigation Guidelines for Swainson's Hawk*. These include location within a 10-mile radius of an active nest and presence of suitable foraging habitat types. As acknowledged in the revised HMP, all of the site is within two miles or less of an active nest based on the presence of at least two nests on the site observed during the 1994 breeding season. The presence of active nests on the site during the 1994 breeding season serves to further support the conclusion on page 4.11-18 that "nesting pairs and fledglings depend on the site for a portion of their prey requirements."
- P190 Comment noted. Refer to Response P178. The presence of active nests on the site is considered sufficient evidence to suggest the "critical" importance of the foraging and nesting habitat on the site. Deleting the word "critical" from the DEIR, as inferred necessary by the commentor, could also be considered misleading in the sense that deleting this word would serve to de-emphasize the importance of the site to Swainson's hawk.

- P191 Comment noted. Footnote 8 on page 4.11-19 of the DEIR has been revised to indicate that some recent development projects have been required to mitigate for Swainson's hawk habitat loss, while other development projects have been required "to comply with the California Endangered Species Act." Footnote 8 correctly notes that the Lee Lakes subdivision is on appeal to the Board of Supervisors; it is on appeal because it was denied by the Planning Commission. Mitigation Measure M4.11-3(a) on page 4.11-36 calls for revision of the Draft Master Plan and proposed HMP to "provide greater consistency with the *Draft Mitigation Guidelines for Swainson's Hawk*," not strict compliance with the guidelines as implied by the commentor. Further consultation and negotiation between the applicant and the CDFG would be necessary to determine specific changes to the proposed HMP, but major areas of concern and recommendations for revisions are outlined in the mitigation measure.
- P192 Comment noted. Refer to Responses P149, P186, and P187. In response to the comment, the text has been revised on page 4.11-27 of the DEIR in paragraph two to delete the reference to an "informal consultation" and avoid any inference that the consultation was initiated by the applicant in an attempt to comply with the provisions of the Federal Endangered Species Act.
- P193 Comment noted. The discussion on page 4.11-27 was intended to provide some understanding of the changes in cover type over time and the corresponding effect on the amount of suitable foraging habitat, similar to the totals and average values presented for Swainson's hawk in Table 4.11-2 on page 4.11-20 of the DEIR. Much of the agricultural habitat on the site was determined by BioSystems to provide atypical, high quality kit fox habitat because of the evidence of small mammal abundance and proximity to potential denning habitat. Because of prey availability, potential denning opportunities, and the proximity of kit fox sightings and known kit fox habitat, BioSystems concluded that the site could be used occasionally for kit fox foraging and possibly denning. Kit fox are opportunistic feeders capable of exploiting any common prey species when available (Orloff, et al., 1986 and Orloff, 1992). This behavior is exemplified by use of locally abundant ground squirrel populations in the northern part of their range. Ground squirrel is not a typical prey item for kit fox throughout most of its range, raising questions over whether kit fox are strictly nocturnal, given the use of this diurnal food source. While the site does not represent typical habitat, kit fox are opportunistic and flexible, and have been known to den in such diverse habitats as orchards, oil fields, Class I chemical waste sites, and urban areas.
- P194 Refer to Response P181. The site is located at the periphery of the known kit fox range, with a portion located within and a portion located outside the approximate range as mapped by the USFWS in 1990.
- P195 Comment noted. The discussion referred to on page 4.11-28 was made with regard to the appropriateness of the 3:1 ratio for replacement habitat recommended by the USFWS, which was considered to be possibly excessive given the atypical habitat provided by most of the site. As noted on page 4.11-13, failure to observe kit fox or their signs during short-term surveys does not constitute proof that a particular area does not provide habitat for the subspecies,

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particularly when other factors such as prey availability, presence of potential dens, and reported sightings within one mile of the site provide an indication of, at minimum, occasional use by kit fox.

P196 Comment noted. Refer to Responses P181, P182, P183, P184, P185, P186, P187, and P195.

P197 Comment noted. The discussion referred to on page 4.11-26 pertains to compensation for loss of suitable kit fox habitat recommended in the BioSystems report, which was developed in consultation with representatives of the USFWS and CDFG. As noted on page 4.11-27, during the meetings conducted with the USFWS during preparation of the DEIR, representatives confirmed their position that the site is occupied kit fox habitat and that the agency would continue to recommend a 3:1 ratio for required mitigation. As discussed on page 4.11-28 of the DEIR, the DEIR biologist has concluded that several factors indicate that the 3:1 ratio for replacement habitat may be excessive, and suggested that a mitigation ratio of 1:1 may be more reasonable.

P198 Comment noted. The discussion referred to on page 4.11-26 concludes that the Draft Master Plan provisions for pre-construction and construction protocol would be "somewhat inconsistent" from the applicant's position that the site does not provide suitable denning and foraging habitat for kit fox, and that kit fox are absent from the site. If kit fox were absent from the site and the site does not provide suitable habitat, then pre-construction surveys presumably should not be necessary to confirm their absence. Kit fox have been known to be attracted to construction sites, and implementation of approved construction protocol would understandably still be advisable to ensure no harm or injury to individual kit fox. Refer to Responses P149, P181, P182, P183, P185, P186, P187, and P195.

P199 Comment noted. Refer to Responses P149, P181, P182, P183, P184, P185, P186, P187, and P195. Mitigation Measure M4.11-2(b) on page 4.11-29 of the DEIR included reference to necessary revision of the *Background Report* by the applicant's biologist as the DEIR biologist assumed that the report would eventually form the basis for a kit fox habitat conservation plan or management agreement with jurisdictional agencies. The content and purpose of the *Mountain House Multi-Purpose Habitat Management Plan* and the *Background Report* have changed considerably since initiation of the DEIR. However, a subsequent revision of the *Background Report* has been included in Appendix 7-D to the Draft Master Plan, retitled *The San Joaquin Kit Fox Report*. As part of the Draft Master Plan that is being reviewed and may eventually be approved by the County, the contents of this and other relevant appendices should be revised to provide complete and accurate information as directed in the FEIR. In response to the comment, the text has been revised on page 4.11-29 of the DEIR in paragraph two.

Aspects of the proposed pre-construction and construction protocol contained in Appendix 7-F of the Draft Master Plan that appear to be inadequate to ensure protection of kit fox are summarized on page 4.11-26. The recommended revisions to the proposed kit fox pre-

construction and construction protocol were made in Mitigation Measure 4.11-2(c) on page 4.11-29 of the DEIR to provide greater consistency with the preconstruction, construction, and operational recommendations specified in the survey report by BioSystems and at minimum to provide consistency with the USFWS *Standardized Recommendations for Protection of the San Joaquin Kit Fox*. "Potential" dens on the site identified in previous surveys or in subsequent pre-construction survey efforts should not be assumed to be of a non-kit fox origin simply because they fall outside the range boundary mapped by the USFWS in 1990 as contended by the commentor. No biological or physical barriers prevent movement to Old River along the northern edge of the site, which was mapped by Morrell as the northernmost edge of the kit fox range (Morrell, 1975).

Mitigation Measure M4.11-2(d) was recommended to ensure that the management practices and habitat enhancement associated with any off-site mitigation lands provide for its long-term viability as kit fox habitat. As discussed on page 4.11-26, the applicant's position is that the site does not provide suitable denning and foraging habitat, and that no habitat compensation should be required. The applicant's biologist have not prepared a habitat management plan addressing management practices and enhancement measures for comparison to those recommended in the survey report by BioSystems.

P200 Refer to Response P190.

P201 Comment noted. The primary concern over impacts on adjacent agricultural foraging habitat pertains to the proposed off-site mitigation area west of the site at the southwestern edge of the Delta system, as discussed on page 4.11-36. This proposed mitigation area would eventually be separated from the Old River corridor by future development within the new community. Hawks would generally have to fly over urban development to access foraging habitat located a considerable distance from preferred nesting habitat along the river. This would most likely contribute to a reduction in suitability and use by Swainson's hawk. In response to the comment, the text has been revised on page 4.11-32 in paragraph three.

P202 Refer to Response P190.

P203 Comment noted. The discussion referred to on page 4.11-34 pertains to the total estimate for mitigation lands that would be provided under the proposed HMP. Other options to compensate for loss of suitable foraging habitat identified in the Draft Master Plan would result in a further reduction in the acreage total, but with recommended revision would presumably be adequate and meet with the approval of the CDFG. As indicated on page 4.11-35, one of several important aspects of the proposed mitigation program that has not been incorporated into the Draft Master Plan or proposed HMP is information on all mitigation options and the procedures necessary to ensure overall coordination, management, and monitoring as part of the habitat management agreement with the CDFG.

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P204 Comment noted. A detailed discussion of the adequacy of the proposed HMP and degree of consistency with the CDFG's *Draft Mitigation Guidelines for Swainson's Hawk* is provided on pages 4.11-32 through 4.11-36. The *Draft Mitigation Guidelines* do not represent mandatory requirements, but are intended as guidelines for use in developing acceptable mitigation plans in negotiating a habitat management agreement with the CDFG for loss of Swainson's hawk habitat. The degree to which a mitigation proposal complies with the guidelines can generally be assumed to be an indication of its acceptability to the CDFG. As noted on page 4.11-32, CDFG representatives have repeatedly expressed concern over the inadequacies of the proposed HMP. These concerns have been re-iterated in the CDFG letter dated 15 July 1994 commenting on the DEIR and proposed HMP (refer to Response S2). Mitigation Measure M4.11-3 calls for revision of the Draft Master Plan and proposed HMP to provide "greater consistency" not strict compliance with the *Draft Mitigation Guidelines*. This would require further negotiation with the CDFG and substantial refinement of the proposed HMP before identified potential adverse impacts are adequately mitigated. This measure would not be "excessive and unnecessary" as contended by the commentor.

The applicant requests a change in Mitigation Measure M4.11-3 to specify that the applicant should negotiate with CDFG for a habitat management agreement only if the Board of Supervisors determines that the project activities constitute a "take" of Swainson's hawk. This change is not being made because the mitigation in question is based on the Fish and Game Code and on the County general policies cited in the EIR.

P205 Comment noted. While the revised HMP (Zentner and Zentner, 1994) now recognizes that most of the site provides suitable foraging habitat that would require mitigation if lost to proposed development, the relevant assumptions, policies, and implementations of the Draft Master Plan and many of the provisions in the HMP have not been revised as recommended in Mitigation Measure M4.11-3 on pages 4.11-36 through 4.11-38. The proposed HMP, even in its "Final Revised Draft" form issued on 21 July 1994, would require substantial revision to provide adequate mitigation for impacts on Swainson's hawk. Use of the HMP as a concise plan to provide for mitigation of impacts on primarily Swainson's hawk is not possible in its present form and content. Much of the text of the proposed HMP is devoted to extraneous information that appears to have been included to support the applicant's position regarding the level of mitigation they believe is warranted, making the report cumbersome and the critical provisions regarding actual mitigation and implementation difficult to locate. This extraneous information should be submitted separately in negotiations with the CDFG and not contained within the final HMP.

With regard to the three elements identified by the commentor, provisions in the proposed HMP still would require revision or clarification as indicated in Mitigation Measure M4.11-3(a). Including a definition of "suitable forage crops" in Appendix B to the proposed HMP does not fulfill what should be a basic provision of an adequate habitat management plan, identifying a mechanism that ensures that minimum acreage requirements for suitable foraging crop types are met on mitigation lands. The proposed HMP simply states that the "current

agricultural regime of the mitigation areas will not be significantly altered by the proposed mitigation program" and that a "minimum of 35 percent of the mitigation area shall be in alfalfa in a rotation of other crop types." No mechanism is identified to ensure that an acceptable minimum acreage of high quality foraging habitat is achieved and maintained on an annual basis. As noted on page 4.11-38 of the DEIR, the suggested minimum of 35 percent is substantially less than the estimated 41 percent average devoted to alfalfa on the site based on cropping patterns for 1989, 1992, 1993, and 1994. This sentence in the DEIR incorrectly refers to the acreage "diverted" to alfalfa, and the text has been revised on page 4.11-38 of the DEIR in paragraph two to read the acreage "devoted" to alfalfa. Assumption 7.3.2c) of the Draft Master Plan states that "mitigation lands need to be at least five acres in size," rather than the 100 acres specified in the proposed HMP, which must still be revised as recommended in Mitigation Measure M4.11-3(a).

P206 Comment noted. The proposed Alameda County off-site mitigation area west of the site, discussed on page 4.11-36, is located at the edge of the south Delta subpopulation of Swainson's hawk where suitable agricultural foraging habitat gives way to the marginal habitat of the grassland-covered Altamont Hills. No riparian nesting habitat occurs within or adjacent to this proposed mitigation area, and even isolated ornamental trees that are occasionally used for nesting by Swainson's hawk are generally absent. The proposed mitigation area would be separated from the Old River corridor by future development within the new community and possibly the proposed effluent storage ponds, and would be located over one mile and upwards of three miles to the south of the river where preferred nesting habitat occurs. While hawks have been known to fly over urban areas to access suitable foraging habitat within their home range, some threshold of habitat fragmentation and distance from suitable nesting habitat would limit breeding success or continued foraging at distant locations. This threshold distance would most likely be less for habitat on the periphery of their home range, such as the proposed mitigation area in Alameda County, especially if it is separated from preferred nesting habitat by dense development. One example of this correlation between nesting and foraging habitat is found in the segment of the American River corridor near its confluence with the Sacramento River. This river segment contains well-developed riparian forest but is separated from suitable foraging habitat by dense urban and suburban development. Swainson's hawk no longer nest along this segment of the American River, presumably because of the absence of adequate foraging habitat in proximity to the riparian nesting habitat.

Although a detailed telemetry study would be necessary to fully understand foraging behavior of a specific pair of Swainson's hawk nesting in the vicinity of urban and suburban development, it should be recognized that substantial foraging habitat remains in the West Sacramento and Stockton areas, and one should not assume that nesting hawks simply fly over urban development to access distant foraging habitat as implied by the commentor. It is interesting to note that the proposed HMP has emphasized the relationship between nesting habitat and foraging activity, and raised questions regarding the importance or even use of the agricultural habitat to the south of Byron Road by foraging hawks. However, in this comment the applicant's biologist now appears to be contending that use of agricultural lands over a

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mile southwest of Byron Road and separated from other foraging habitat by dense development to the east and unsuitable grassland cover to the south and west would be suitable as a mitigation area. This area would not serve as suitable mitigation to replace the high quality habitat that currently exists on the site, provided by a combination of both preferred crop types and proximity to nesting habitat along Old River.

- P207 Comment noted. Refer to Responses P149, P180, P204, and P205. It is not within the Board of Supervisors discretion to determine whether implementation of the proposed project would constitute a "take" under the California Environmental Quality Act. Project compliance with the California Environmental Quality Act would be determined by the CDFG. As indicated on page 4.11-32, in the absence of adequate mitigation the CDFG would consider the loss of foraging habitat to constitute "take" under Section 2081 of the State Fish and Game Code. The significance of the loss of over 4,200 acres of suitable foraging habitat is compounded further by the loss of the active nest near the center of the site discovered during the 1994 breeding season, which is currently to be removed as part of the proposed HMP.
- P208 Refer to the Responses P163 and P177. No detailed surveys have been conducted for most of these species along Old River, and their presence or absence can only be determined through further comprehensive surveys during the appropriate time of the year.
- P209 The discussion on page 4.11-41 refers to the obstruction of wildlife movement across the open agricultural habitat of the site for most terrestrial species, and acknowledges that the Mountain House Creek riparian zone has been substantially altered. Enhancement of the Mountain House Creek corridor has been recommended in the previous FSEIR to partially mitigate the obstruction of wildlife movement resulting from dense development throughout the site. The effectiveness of the creek as a future movement corridor would be dependent on the extent of protective cover along the restored creek and degree to which human activity and disturbance is restricted from sensitive habitat areas.
- P210 Providing trails within 10 feet of the Mountain House Creek channel, as suggested by the commentor, would not provide an adequate setback from the creek, supporting establishment of dense riparian cover. Limited wildlife viewing areas that terminate in an interpretive display adjacent to the creek corridor would be appropriate (as provided in revised Policy e for Objective 5 of Parks and Recreation). However, careful placement of path/trail alignments, effective screening and dense planting, and other provisions would be necessary to prevent establishment of footpaths along the banks of the creek and disturbance to sensitive wildlife habitat.
- P211 Comment noted. Jurisdictional review and authority of the U.S. Army Corps of Engineers (Corps) and the CDFG is summarized in the footnote on page 4.11-5. The provision in question on page 4.11-46 was recommended as an additional implementation to the Draft Master Plan to ensure coordination with the Corps and the CDFG "where required" for

jurisdictional approval defined by Section 404 of the Clean Water Act and Section 1601-1606 of the State Fish and Game Code.

P212 Comment noted. Mitigation Measure 4.11-8(a) states that detailed field surveys of any proposed off-site mitigation locations should be conducted, and if sensitive resources are encountered, that representatives of the USFWS and CDFG be consulted and a habitat protection plan be prepared if required to provide compliance with the State and Federal Endangered Species Acts. Refer to Responses P149, P184, P185, P186, P187, P199, P204, and P205 for a discussion of mitigation requirements regarding kit fox and Swainson's hawk and compliance with the State and Federal Endangered Species Acts.

P213 Comment noted. Mitigation Measure M4.11-3(a) on page 4.11-37 calls for resolution of the acceptability of establishing mitigation credit for nesting habitat as defined in the acreage ratios of the Swainson's Hawk Mitigation Program in the proposed HMP.

ADMINISTRATIVE PUBLIC HEARING MINUTES

Lester H. Krohn

PH1 Comment noted.

Judi Burick

PH2 Comment noted.

Bob Burick

PH3 Comment noted.

Barry Hand, City of Tracy

PH4 The first portion of the comment is noted. Additional analysis related to transportation impacts of the project upon the Grant Line/I-205 interchange is addressed in Response L12. For project impacts and mitigation related to Grant Line Road, refer to Response L10.

PH5 The City of Tracy Parks and Recreation Department currently operates no regional parks, and no community parks (parks over 40 acres). The one community park site along 11th Street that the City received from developers as part of the 1982 Residential Area Specific Plan was recently sold by the City because of high annual carrying costs. According to the 1993 DEIR for the Tracy Urban Management Plan, the City currently has no Parks Master Plan and needs to establish an integrated citywide system of parks. The City does maintain approximately 30 mini parks (usually one-half acre facilities) and neighborhood parks (6 to 10 acres in size).

RESPONSES TO COMMENTS

It is unlikely that project residents would travel four or five miles to visit a City maintained mini park or neighborhood park, since neighborhood park facilities, including ball fields, will be constructed within the project during the initial years of development.

PH6 Comment noted.

PH7 Comment noted.

PH8 Comment noted.

David Storer, City of Tracy

PH9 As previously noted, this DEIR has not examined the fiscal impacts of the proposed project.

PH10 The project's relationship with the City of Tracy Urban Management Plan is discussed on page 4.2-5 in the General Plan and Development Title Consistency section and also on pages 6-14 and 6-15 in the Cumulative Impacts section. Also refer to Response L2.

PH11 Comment noted. A lengthy analysis of the consistency of the Draft Master Plan with the previous mitigation measures identified in the previous Final Supplemental EIR is included as a table in Appendix D of the DEIR. When the DEIR analysis indicates that the Draft Master Plan has complied with a previous mitigation measure from the Final SEIR, the measure has been dropped. When compliance has not measured, a new or similar mitigation is incorporated into this DEIR. New mitigation measures have also been included in this DEIR when new impacts not previously identified in the Final SEIR are documented.

PH12 Comment noted.

FEDERAL AGENCIES

F1 Storm water runoff into Old River is discussed on page 4.4-34 of the DEIR; discharges of treated wastewater are discussed on page 4.4-20. Discharges into Old River have been identified as a potential significant impact of the proposed project and mitigation measures have been provided in Mitigation Measure M4.4.2-1 on page 4.4-23ff.

The project does not propose to discharge storm water runoff or treated wastewater to the Delta-Mendota Canal.

F2 The commentor is correct that fencing along the Delta-Mendota Canal is not proposed as part of the project; hence, the recommended Mitigation Measure M4.1-4.

F3 Comment noted.