

O-11g

vegetable, strawberry and raspberry production is dominated by a small number of large growers. Farms grow crops for only a few weeks out of the basin year. If these individuals adopted a conservation program that saved even 10 percent of the water they use, they could save thousands of acre-feet of water.

Residential, commercial and industrial water use make up roughly 20 percent of the total amount of water used in the Valley. Redirection, the capturing of surface water and conservation offer hopes of significant improvement in water management in these sectors.

III. Policy Recommendations: Moving Towards Sustainable Water Use

According to water agency documents, conservation can yield 9,000 acre-feet. Nonetheless, the PVMWA has failed to make the most of the water available. The PVMWA has failed to make the most of the water available. The PVMWA has failed to make the most of the water available. The PVMWA has failed to make the most of the water available.

While all water users in each category analyzed can reduce their water use, the PVMWA should focus its efforts on making the most of the water available. The PVMWA should focus its efforts on making the most of the water available. The PVMWA should focus its efforts on making the most of the water available.

4. conservation program will only be effective if compliance is ensured and enforced. A system of incentives to make major cuts in water use, and disincentives or penalties for failure to meet conservation goals will be necessary to make conservation work for everyone.

Facing the Water Crisis

Introduction

The Pajaro Valley's water basin is in a state of severe overdraft. The groundwater which was tapped upon for municipal and industrial use, as well as agricultural irrigation is being pumped out of the reservoirs faster than nature can return it. As a result, the levels of well water throughout the Valley are dropping and seawater from the Monterey Bay has begun to contaminate the basin's water supply.

Seawater intrusion was first detected in the Pajaro Valley as early as the 1950's. The problem has worsened in recent years through the addition of irrigated acreage throughout the Valley, and the conversion of orchards to almond orchards. The conversion of orchards to almond orchards has increased the demand for water and eliminated thousands of farm worker jobs. As pumping increases, so does seawater intrusion (See Chart 1). Current pumping levels are approximately 65,000 a.f. a year. As a result, over 9,000 acre-feet of seawater are moving into the basin on an average year.

Chart 1. Too much pumping results in seawater intrusion

The Valley faces a series of important choices regarding its use of water. It will take a comprehensive approach that considers all potential solutions, while also educating the public about the costs and benefits of different approaches.

The problem is large, and it cannot be solved by any single program. One of the most cost-effective and promising ways to stop seawater intrusion is through conservation. Conservation is the least expensive, the most effective, and the most sustainable approach to reducing water use; conservation helps keep nitrates and pesticides out of our surface and groundwater.

While conservation is a responsibility that rests on the entire community, it is important that the individuals and organizations that use the most water take the most responsibility. Moreover, though, there are hundreds of growers in the Pajaro Valley. Agriculture is dominated by a few dozen large growers who use the lion's share of the resources. If

there is ever to be real change in the water use patterns of the Valley, these large growers must be the community leaders in pioneering conservation efforts.

From Historical Problem to Ongoing Crisis.

O-11g

Over 95 percent of the water used in the Pajaro Valley comes from well water. With the current pumping patterns including the use of coastal wells, roughly 31,000 a.f. of water can be safely pumped without a significant inflow of seawater. The Pajaro Valley Water Management Agency's most recent internal documents indicate that there are 30,000 acres under irrigation or estimated total water roughly 52,000 a.f. The largest 10% of growers use roughly 70 percent of the Valley's groundwater. Moreover, though, there are hundreds of growers in the Pajaro Valley. Agriculture is dominated by a few dozen large growers who use the lion's share of the resources. If

Between 1956 and 1983 approximately 5,000 acres within the Valley have been converted to farm land and orchards, which require relatively little irrigat on, were once the mainstay of agricultural production in the Pajaro valley. However, orchard acreage has been decreasing for over 50 years. The same period has seen a dramatic increase in the production of water-intensive crops such as raspberries, strawberries and vegetable crops (See Charts 2 and 3).

Charts 2 and 3. Orchard acreage has plummeted while the strawberry acreage has expanded. Each acre of strawberries pumps up to four times as much water as an acre of apples.

As a result of these trends, agricultural water use has increased 17,500 acre-feet between 1956 and 1989. The same period has shown a slow increase in municipal water reflecting an increase in the population of the Pajaro Valley. Water users should know that the increase in agricultural water use alone is greater than the amount of water used by all other sectors.

Chart 4. Agricultural water use has risen greatly over the past 30 years.

The current state of overdraft threatens some areas more than others; coastal areas bear the brunt of the impact of overdraft. The current state of overdraft threatens some areas more than others; coastal areas bear the brunt of the impact of overdraft. The current state of overdraft threatens some areas more than others; coastal areas bear the brunt of the impact of overdraft.

Chart 5. As salt (chlorides) contaminates irrigation water, crop yields suffer.

Understanding Current Water Use

Water Use in the Pajaro Valley.

Overdraft is a Valley-wide problem, but increasing along the coast has an immediate impact on seawater intrusion, as salt water moves inland to fill the vacuum. By shifting pumping patterns away from the coast and moving water from inland areas to the coast for irrigation, and residential use, studies show that we can increase the water available for use in the Pajaro Valley. The transition should be made as soon as possible so that we can focus on using water in the most efficient way possible.

Efficiency should be the guiding principle for the Valley's water management, the PVMWA, each water using sector, from industry to agriculturists, and each individual water user.

In order to encourage efficient water use, we have completed an analysis of each of the major water users: commercial, industrial, urban and residential use and the three largest crops which make up the bulk of the water used in the Pajaro Valley. Chart 5 provides a comparison of the comparative use of each of the major water-using sectors.

O-11g

Chart 5. Comparison of Water Use by Sector

The most recent studies indicate that agriculture uses roughly 76 percent of the basin's water or roughly 52,000 acre-feet of water annually. The most recent studies indicate that agriculture uses roughly 76 percent of the basin's water or roughly 52,000 acre-feet of water annually. There are a few large growers that dominate production as well as the use of agricultural land and water. Cashew, strawberries and vegetables are the three largest crops in terms of water use in the Pajaro Valley, and almost two thirds of total water use in the Valley. While hundreds of growers farm these crops, the bulk of the acreage, and thus the water use for each of these crops, is controlled by a total of roughly thirty large growers. Table 1 compares the use of major water using sectors in the Pajaro Valley and highlights water-intensive crops which are controlled by relatively few individuals.

TABLE 1. Summary of Water Use by Sector

Water User by Sector	Estimated Total Water Use (in acre-feet)	Estimated Portion of Total Water Use in the Valley	Estimated Water Use of Top 10% of Growers Within Each Crop
Vegetables	20,507 a.f.	30.1%	12 Individuals use 80%
Strawberries	20,034 a.f.	29.5%	10 Individuals use 50%
Raspberries	4,500 a.f.	6.6%	7 Individuals use 67%
All other Crops and 19% residential and	6,659 a.f.	9.8%	
Commercial	12,200 a.f.	18%	
Industry	4,100 a.f.	6%	
Total	66,000 a.f.	100%	

For the purposes of this report, we have assumed average water use patterns for the large and small growers within each crop and use category. Average water use per crop is characterized in the PVMWA's 1998 Crop Water Use Study.

It is important to acknowledge that there are a variety of factors which can influence a grower's water use. Some of these factors include weather, soil type, irrigation system, and plant density can greatly alter a grower's water needs.

The next sections of the report examine the water use trends for each of the major groups of water users. Each of these sections will include information on how growers in the Pajaro Valley can conserve water, growing water-resistance, food processors, industrial users, the city and the PVMWA can all play a productive role by helping to turn this situation around.

Vegetables.

Estimated Yearly Water Use: 20,507 acre-feet

Percentage of Total Basin Demand: 30.1%

Local vegetable crops include a wide range of commodities such as leaf and head lettuce, broccoli, cauliflower and artichokes. Unlike raspberries and strawberries, it is typical for vegetables to be double or triple cropped. That is, the same acreage is used multiple times in a year. The PVMWA's 1998 Crop Water Use Study, Vanessa Bogelholm, a local strawberry grower working under contract with the PVMWA, compiled the report over the previous three years. This study calculated the average water use by vegetable growers in the Pajaro Valley. The study found that the average water use for one acre assuming that this acre is farmed with the typical cropping patterns within the Valley. Cropping pattern variation can result in a wide range of water demands. In the Springfield region, for example 30% of farms

O-11g

surveyed use fewer than 1.5 a.f., while 20% use more than 3 a.f. According to this crop water use study, there are slightly more than 19,000 acres of vegetables in the Valley and vegetables consume slightly more than 20,000 acre-feet of water-- more than all industrial and residential water use in the Valley combined.

The fact that vegetables can be double and triple cropped, compounded with different cropping systems in Santa Clara County, can result in different water demands. Despite this, it is clear from examinations of the data farmed or even the ratio of size between two vegetable growers. Despite this, it is clear from examinations of the positions use per acre data, that of the roughly 12% vegetable growers in the Valley, the top 10 percent of growers farm over four times as much as the combined production of the remaining 10% growers (see Chart 5).

Chart 6 Vegetable Production in the Pajaro Valley is controlled by a limited number of large growers
On average each of these large vegetable growers use nearly 3,000 acre-feet of water-- the water use of roughly 3,000 residents. Some growers use much more.

Vegetables; the potential to make a difference

Three central tenets guide conservation practices in irrigation: uniformity, delivering water directly to the root system, and proper scheduling. Together, reaching these goals will ensure the most efficient use of water possible while meeting the needs of the crop in its particular setting (soil type and microclimate).

Vegetable growers can accomplish a great deal of conservation through relatively simple steps. Many vegetable growers continue to irrigate with sprinkler systems, although conversion to drip irrigation can save significantly more water. The PVMWA has provided training to farmers on how to convert their irrigation systems to drip irrigation. The PVMWA would conduct trainings to further this use of water conservation (ET) data for irrigation scheduling. ET data can be used to determine the water needs of the plants. In Arizona, growers that irrigate during the day are fined for wasting water in such an easily avoidable way.

These growers that rely on drip irrigation should use one day less for each acre of vegetables in the Valley if farmers in the area soils. Growers that use drip irrigation should consider extreme weather fields for wet spots. Wet spots are areas where water is not being absorbed by the soil. These spots should be identified and growers should measure moisture in soil. For some, cost roughly \$30 and are easy to use, but too often growers don't know how to use them. Growers should also level their fields on a regular basis in order to increase irrigation uniformity and reduce overall water use.

The PVMWA must do additional work to provide local vegetable growers with the tools that they need for conservation. The Crop Water Use Study, the PVMWA's most recent and thorough document on agricultural water use in the Valley, does not provide a great deal of guidance for vegetable growers. The document averages all with accurate estimates of the water needs of specific vegetable crops in specific regions. In addition, the PVMWA would conduct trainings to further this use of water conservation (ET) data for irrigation scheduling. ET data can be used to determine the water needs of the plants. In Arizona, growers that irrigate during the day are fined for wasting water in such an easily avoidable way. The PVMWA should work to bring additional weather stations into the Valley so that weather data in all of the Valley's microclimates is available.

Strawberries

Estimated Water Use: 20,034 acre-feet

Percentage of Total Basin Demand: 29.5%

Mccorville is known as the strawberry capital of the world, and indeed one third of the nation's strawberries are grown in the Pajaro Valley. The Pajaro Valley has been the center of the strawberry industry in the Pajaro Valley for the past 40 years. This is inclusive of the trend in the greater Pajaro Valley where strawberry acreage has been between 6,500 and 7,000 acres in recent years.

The PVMWA's Crop Water Use Study states that strawberries use an average of 2.85 acre-feet of water per

O-11g

A significant percentage of residential water is consumed by rural residential users who typically operate their own wells. In 1989 there were roughly 23,700 rural residential water users consuming an estimated 4,100 a.f. of water annually. Most of the wells are not metered, making it difficult to get a very accurate assessment of rural residential demand.

Residential water use, both rural and municipal has been increasing slowly, but steadily as more people move into the Valley and rural residential demand has increased to replace additional wastewater. Compared to the increase in agriculture water use, however, the increase is relatively minor increase.

Industrial water users consume roughly 4,100 a.f. of water annually. About a quarter of this comes from the WWSA supply with the remaining amount from private wells. At most 50 percent of industrial water demand comes from private wells and has been quite stable for the past 25 years and the PWVMA does not predict dramatic change in that sector.

Industrial, Residential and Commercial Conservation Potential

Significant conservation measures can begin in the basins. The City of Watsonville has taken the lead as the only major conservation program taking place within the district and has made low-flow toilets and showerheads available at low cost. These measures have helped conserve 500 acre-feet so far and have kept urban water use down during periods of high growth. This program should be continued and expanded to subsidize low water use washing machines and dishwashers.

Students in local schools should continue to be instructed on the severity of the basin's ground water problems and conservation education should be incorporated into appropriate school programs starting from an early age. The PWVMA should encourage local ordinances which prohibit the over-irrigation of lawns. The WWSA should join with the PWVMA to pursue a leak detection program to eliminate water loss within its own system.

There is the potential for a great increase in water demand through expanding development of residential and commercial areas. The City of Watsonville has a higher density development plan which would allow for higher density development can use significantly more. The city of Watsonville and the counties of Monterey, San Benito and Santa Cruz may consider changes in the zoning plan or the addition of impact fees to insure that new developments provide sufficient financing to purchase supplemental water through environmentally sound solutions.

As noted above, roughly 90% of the industrial water use demand comes from fruit and vegetable processors. There is potential for the reuse of food processing waste water for the irrigation of other crops, or for non-food uses such as cooling water. The City of Watsonville should pursue the possibility of using reclaimed water and should expand its filtration plant in order to make use of local surface waters.

THE VOTERS SPEAK

The recently approved voter initiative Measure K requires that the PWVMA move quickly to promote conservation efforts and bring the Valley's water basin into balance. Measure K provides the agency with a mandate to deal with the basin's water shortage. The measure also requires the PWVMA to identify and develop alternative sources of water such as reclamation and tertiary treatment.

Measure K and D set new priorities for the PWVMA, the agency must focus on local projects and conservation. The agency cannot build a pipeline until 2008 at the earliest, and is required to win voter approval to undertake the project. By passing two measures that placed restrictions on the PWVMA's ability to build the pipeline, and restrict the agency's ability to raise rates, voters have made it clear that they have deep reservations about the PWVMA's financial management plans.

MOVING TOWARDS NEW SOLUTIONS

This report has analyzed water use patterns within the Pajaro Valley as a first step towards finding the most effective way to conserve water. The report shows that high water use crops have a great deal of responsibility for the basin overdraw. Small changes in the irrigation

O-11g

practices of the largest growers have the potential to save thousands of acre feet of water. While we must all work towards finding solutions, real change must come from the largest water users in the basin.

Many growers in the Pajaro Valley have made headway. Most growers now use drip irrigation and few if any growers in the Valley use such wasteful methods as furrow irrigation. Because most wells are now metered we can begin to track water use and make more informed decisions about water conservation. A well-managed conservation program could have a substantial impact on the Valley's sizable water problems.

According to the agency's 1990-94 Mobile Lab Report, the irrigation systems for 54 out of 72 growers (75%) who participated in the evaluation received a rating of fair or better. In 1993, the City of Watsonville was the most successful grower in the Valley. The City of Watsonville has a long history of water conservation and has been recognized for its efforts. The City of Watsonville has a long history of water conservation and has been recognized for its efforts. The City of Watsonville has a long history of water conservation and has been recognized for its efforts.

When the PWVMA was created in 1986, its charter declared conservation to be one of its primary projects. The agency has substantially neglected this fundamental principle. While much of the groundwork has been laid to begin an effective conservation program, the PWVMA has not implemented one. Apart from a city-led project program in place.

The agency has recently embarked upon a series of local supply projects, but has found that certain elements are critical to the success of these projects. The agency has found that certain elements are critical to the success of these projects. The agency has found that certain elements are critical to the success of these projects. The agency has found that certain elements are critical to the success of these projects. The agency has found that certain elements are critical to the success of these projects.

Chart 9. Conservation Saves More Water Per Penny Spent than Local Supply Projects or an Import Pipeline Unfortunately, the PWVMA's has not yet set specific conservation goals or attempted to yield measurable water savings through implementation.

MOVING FORWARD

NEW SOLUTIONS FOR THE PAJARO VALLEY

The PWVMA must follow the lead of value agencies throughout the state that realize that an effective water conservation program is the right thing to do and because the people of the Pajaro Valley demand it, the agency must now initiate a conservation program. Such a plan can combine many of these elements:

I. Infrastructure development

Local conservation opportunities. The final recommendation of state and federal advisors to local water districts is to appoint a full time water conservation coordinator. There are some signs that the PWVMA is moving in this direction, but it is unlikely that a PWVMA conservation plan will have any success without strong staff support.

Increased use of CIPs. The PWVMA should bring CIPIS (California Irrigation Management Information System) metering stations to each of the Valley's microcommunities. CIPIS stations are relatively inexpensive and would provide a means for growers to monitor their own water use.

Improve local water use. The PWVMA should update and maintain publicly available information on water use in the district. The agency should build a database which links water pumping patterns to cropping data. This could be done by requiring growers to report their water use to the agency. The agency should also maintain these public records. This data would be vital in determining whether individual growers are meeting conservation goals.

O-119

Set Realistic Goals and Measure Efficiency. Large water users should be responsible and efficient with our public resource. Accountability mechanisms have been developed by other water districts. Water allocations based on historical use, cropping patterns and irrigation efficiency will develop increase responsibility for water use. The public, measurable goals for use reduction should be set, along with penalties for use that is above baseline.

Pesticide use reduction for the Central's large water users. Individual large water users often consume as much water as seven thousand households in and around Watsonville. Because Measure D capped the augmentation fee at \$30 per acre-foot, and the water users are not required to pay for the water, they have no incentive to conserve. The PVMWA should focus its efforts on those individuals who use 100' +/- of water or more per year.

Alternative Sources of Funding. Because Measure D capped the augmentation fee at \$30 per acre-foot, and the water users are not required to pay for the water, they have no incentive to conserve. The PVMWA should focus its efforts on those individuals who use 100' +/- of water or more per year.

II. Concrete program with enforcement

Concrete goals. Because wells are metered, the PVMWA will be able to measure the impact of specific conservation programs. Concrete goals will be set and met. The conservation coordinator should establish reductions in water use for the major water users in the Valley.

Individual conservation plans. The conservation coordinator should insure that all growers maintain an individual conservation plan. The plan should include a list of water saving practices and a schedule for implementation. To ensure that the plans are being followed, "third conservation programs and independent evaluations should be available to the public.

Penalties for non-compliance. The PVMWA should establish a list of wasteful practices including maintaining leaky pipes, and using sprinklers during sunny days or windy conditions. Growers found to be engaged in wasteful water practices should face financial penalties.

Water conservation demonstration. Growers should be given a list of water saving practices which they should be using. Their baseline water use limits should receive financial penalties, while those whose water use falls below 80% of their baseline could receive financial incentives through reductions in their augmentation fee charges.

III. Technical support.

Remediation of mis-mobile lab. As noted above, in the past the PVMWA maintained a mobile lab to help growers increase irrigation efficiency. The lab was eliminated for lack of interest but has recently been reintroduced on a temporary basis. A similar program should be made available to Pajero Valley residents and businesses.

Local solutions. The PVMWA should conduct its own studies on farming practices specific to the Pajero Valley's crops and climate to give growers all the information that they need to irrigate efficiently.

Work with state and federal agencies. The California Department of Water Resources (CDWR) has established a list of Best Management Practices for agricultural irrigation which several local water agencies have signed on to. Some of these recommendations include the use of CHIS and conversion to drip irrigation systems. The PVMWA should encourage growers to access and seek to enforce that growers follow the PVMWA's control (above best management practices).

Several water agencies including Fox Chynoweth Groundwater Management Agency are achieving significant results in water conservation. The PVMWA should learn from these agencies and help growers who are not doing as well. The program is not controversial but this political battle will be much smaller than the environmental and economic crisis it will help us avoid. If an aggressive conservation program is not implemented now, then we can expect land following and thousands of jobs lost in the future.

O-119

While many difficult decisions remain, the Pajero Valley has already made the most important choice. By approving Measure K the community has demonstrated the importance of acting now to preserve the unique natural resources of the Pajero Valley. The problems we face are severe but we can make a difference in securing environmentally and economically sound solutions.

Appendix A

Sources and Methodology

We analyzed the relative size of growers within the Pajero Valley Water Management Agency District through an analysis of the PVMWA's water use data. Data for non-agricultural pesticide use was filtered out, as was uncalibrated agriculture and all permit applications which expired prior to January 1, 1998. Crops were then grouped: 1. Undeclared Commodities, 2. Declassified Commodities, 3. Declared Commodities. The relative size of growers was determined by comparing the acreage of each crop to the total acreage of all crops in the Pajero Valley Water Management Agency District. The relative size of growers was determined by comparing the acreage of each crop to the total acreage of all crops in the Pajero Valley Water Management Agency District. The relative size of growers was determined by comparing the acreage of each crop to the total acreage of all crops in the Pajero Valley Water Management Agency District.

Several of the sources cited in this report are based upon data compiled in 1989. We used the most recent information provided to us by the PVMWA, and through extensive research, found the data to be as accurate as any available. These documents, including the 1993 Basin Management Plan, continue to serve as the basis for the report and board's decision making. We therefore took the data to be adequate for the purposes of this analysis.

Endnotes

1. Pajero Valley Water Management Agency Basin Management Plan, Main Report, Volume 1, 1993. (Figure 7-5).
2. Santa Cruz and Monterey County Pesticide Permit Data. (See Appendix A).
3. Historical and Future Water Use Pajero Valley Water Management and Augmentation Study, James H. Kline, 1993. (See Appendix A).
4. Historical and Future Water Use Pajero Valley Water Management and Augmentation Study, James H. Kline, 1993. (See Appendix A).
5. Santa Cruz County Crop, 1998, 1910-1995; Pajero Valley Water Management Agency Crop Water Use Study, 1998.
6. Historical and Future Water Use, Figure 5, Figure 8.
7. Based on analysis of recent cropping patterns in the coastal area of the Pajero Valley, Uses EDD data to determine the relative size of growers within the PVMWA district and served as a useful tool in furthering the understanding of the key water users within the district.
8. Basin Management Plan, 1993 Volume 1, p. 7-7, Figure 7-5.
9. State Water Conservation Coalition Agricultural Conservation Task Force, Policy Statement on Efficient Water Conservation, 1993.
10. Historical and Future Water Use, Figure 5.
11. Crop Water Use Study.
12. California Water Plan Update, Bulletin 160-98, Department of Water Resources, p. 4-16. Based on daily per capita use of 178 gallons for Central Coast residents.
13. Santa Cruz and Monterey County Pesticide Permit Data. (See Appendix A).
14. Santa Cruz and Monterey County Pesticide Permit Data. (See Appendix A).
15. Santa Cruz and Monterey County Pesticide Permit Data. (See Appendix A).
16. Crop Water Use Study, pp. 15, 17, 22, 26, 29.
17. Ibid.
18. Ibid.
19. Crop Water Use Study, pp. 35.
20. Santa Cruz and Monterey County Pesticide Permit Data. (See Appendix A).
21. Crop Water Use Study, pp. 28.
22. Ibid., 35-6.

O-11g

- 23. Historical and Future Water Use, Figure 3.
- 24. *Ibid.*, p. 2-3.
- 25. *Ibid.*, p. 2-3.
- 26. Basin Management Plan, 1993 Volume 1, p. 5-6.
- 27. *Ibid.*, p. 3-4.
- 28. *Ibid.*, pp. 3-4, 2-5, 4-6.
- 29. Mobile Lab Report, Summary of Results, 1990-1994, Charles Mollath and Vanessa Engelmohr, July 26, 1994

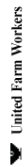
Additional Sources for Conservation Recommendations

MCWRA Water Conservation Program Summaries for 1995 and 1996.

PWMMA "Water Conservation Measures", 1990.

State Water Conservation Coalition, Agricultural Conservation Task Force, Policy Statement on Efficient Water Management for Conservation by Agricultural Water Suppliers, On Farm Practices", March 1994

For a copy of "Stop the Salt, Save our Jobs", complete with graphs, call 831-761-7174.



Copyright (c) 2005 United Farm Workers All rights reserved. | Privacy Policy | [Design by SolLink](#)

O-11g

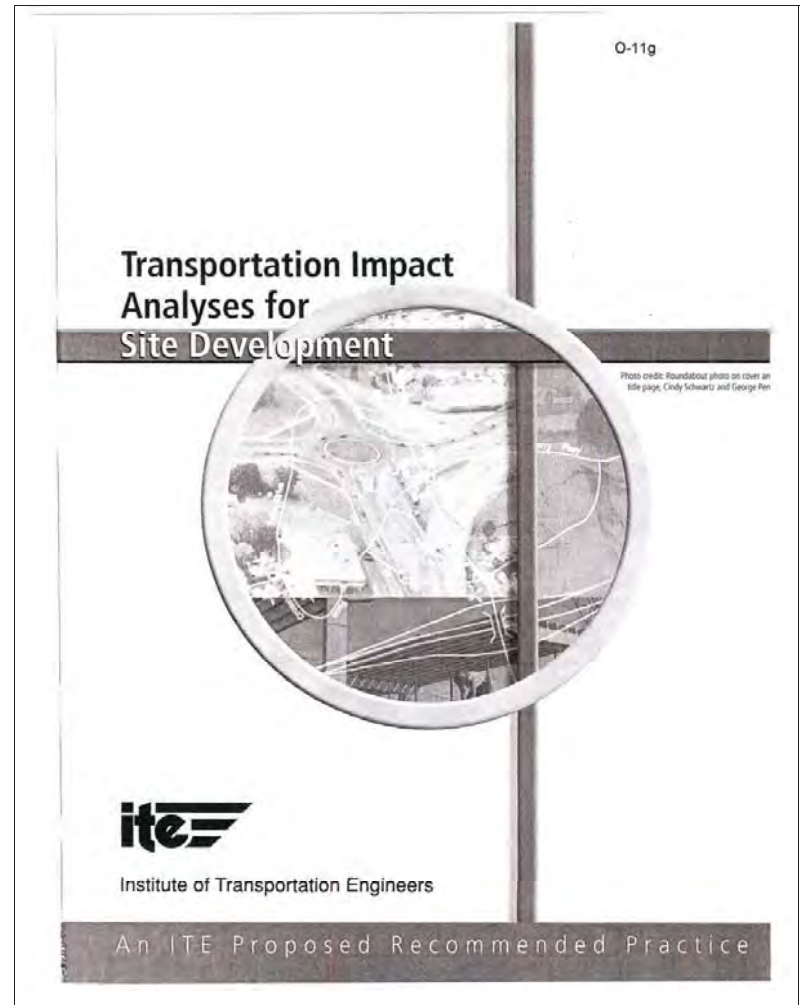
EXHIBIT 10



O-11g

EXHIBIT 11

O-11g



O-11g

The Institute of Transportation Engineers (ITE) is an international educational and scientific association of transportation and traffic engineers and other professionals who are responsible for meeting mobility and safety needs. ITE facilitates the application of technology and scientific principles to research, planning, functional design, implementation, operation, policy development and management for any mode of transportation by promoting professional development of members, supporting and encouraging education, stimulating research, developing public awareness, exchanging professional information and maintaining a central point of reference and action.

Founded in 1930, ITE serves as a gateway to knowledge and advancement through meetings, seminars and publications, and through our network of nearly 17,000 members working in more than 92 countries. ITE also has more than 90 local and regional chapters and more than 130 student chapters that provide additional opportunities for information exchange, participation and networking. To learn more about ITE and our services, visit www.ite.org or call +1 202-289-0222.



Institute of Transportation Engineers
1099 14th Street, NW, Suite 300 West
Washington, D.C. 20005-3438 USA
Telephone: +1 202-289-0222
Fax: +1 202-289-7722
ITE on the Web: www.ite.org
Publication No. RP-020C

© 2006 Institute of Transportation Engineers. All rights reserved.
1000/MP/JS/1205
500/GWG/0706

Printed in the United States of America
ISBN: 1-933452-10-2

Transportation Impact Analyses for Site Development

O-11g

Table 2-3. Suggested Study Area Limits for Transportation Impact Analyses

Development	Study Area
Fast-food restaurant	Adjacent intersection if corner location
Service station, with or without fast-food counter	Adjacent intersection if corner location
Mini-mart or convenience grocery with or without gas pumps	660 ft. from access drive
Other development with fewer than 200 trips during any peak hour	1000 ft. from access drive
Shopping center less than 70,000 sq. ft. or Development w/peak-hour trips between 200 and 500 during peak hour	All signalized intersections and access drives within 0.5 miles from a property line of the site and all major unsignalized intersections and access drives within 0.25 miles
Shopping center between 70,000 and 100,000 sq. ft. GLA or Office or industrial park with between 300 and 500 employees or Well-balanced, mixed-use development with more than 500 peak-hour trips	All signalized and major unsignalized intersections and freeway ramps within 1 mile of a property line of the site
Shopping center greater than 100,000 sq. ft. GLA or Office or industrial park with more than 500 employees or All other developments with more than 500 peak-hour trips	All signalized intersections and freeway ramps within 2 miles of a property line, and all major unsignalized access (streets and driveways) within 1 mile of a property line of the site
Transit station	0.5-mile radius

SOURCE: Adapted from Stover and Koepke 2002 and Barora & Schmidt.
GLA = gross leasable area

Works Cited

Florida Department of Transportation. 1997. *Site Impact Handbook*. Tallahassee, FL: Florida DOT, pp. 13-15.

Georgia Department of Community Affairs. 2002. *Guidelines for the Preparation of Developments of Regional Impact*. Table II, Tiers and Development Thresholds.

Institute of Transportation Engineers. 2003. *Trip Generation*. 7th ed. Washington, DC: ITE.

Stover, Vergil G., and Frank J. Koepke. 2002. *Transportation and Land Development*. 2nd ed. Washington, DC: Institute of Transportation Engineers.

References for Further Reading

Edwards, John D., Jr., ed. *Transportation Planning Handbook*. 2nd ed. Washington, DC: Institute of Transportation Engineers, 1999.

Keller, Richard, and Joe Mehra. *Site Impact Traffic Evaluation Handbook*. Washington, DC: Federal Highway Administration, 1985.

O-11g

EXHIBIT 12

O-11g



Autumn Wind Associates, Inc.
Air Quality CEQA Analysis and Consulting Services
P.O. Box 1030 • Newcastle, CA 95658
916.663.2222 • Cell 916.719.5472 • www.autumnwindus

25 Jan 2009

Mr. John Farrow
M.R. Wolfe & Associates
49 Geary Street, Suite 200
San Francisco CA 94108

RE: Monterey County General Plan DEIR

Dear Mr. Farrow:

I am pleased to submit the following comments regarding the Draft Environmental Impact Report (DEIR) for the proposed Monterey County 2007 General Plan:

I. Misleading Analysis Scenarios (AQ-1 & AQ-3)

The analysis scenarios provided in the DEIR for two air quality impact analyses, AQ-1: Consistency with Air Quality Plans, and AQ-3: Criteria Pollutants, are unnecessarily confusing and poorly described, thus making it difficult to determine if any of the scenarios disclose the actual project specific impacts of the proposed General Plan relative to baseline conditions. The scenario descriptions contain errors that mislead the reader and further complicate any meaningful interpretation of the results. For example, in Table 4.6-11 the scenarios titled "Existing plus Project Buildout" and "Existing plus Project (2030)" would appear to be based on the same General Plan assumptions with results for two different years. However, only one scenario is actually based on the proposed General Plan. The "Existing plus Project (2030)" scenario is not based on the proposed General Plan, but instead on AMBAG development projections made in 2004 (DEIR, 4.6-23).¹ Since the two scenarios are not based on the same assumptions, the scenario names should not imply that they are. By doing so, the DEIR masks the implications of the data within each scenario.

63

¹ The scenario descriptions on pages 4.6-22 through 4.6-28 state that the 2007 General Plan is the basis for the "Existing plus Project Buildout", "Cumulative 2030", and "Cumulative Buildout" scenarios. The "Year 2000" scenario is the baseline, and the "Existing plus Project (2030)" scenario is based on an AMBAG 2004 forecast.

Page 1 of 11.

O-11g

II. Flawed Air Quality Significance Determination Caused by Incomplete Analysis

To properly analyze and disclose the impacts of the proposed General Plan, the DEIR must identify the growth allowed by the proposed General Plan in the unincorporated area and must then disclose the emissions resulting from unincorporated area growth in 2030. The DEIR fails to provide this fundamental analysis scenario (see scenario descriptions at DEIR page 4.6-21 through 4.6-28). The only two scenarios that provide unincorporated area impacts while holding incorporated areas constant are the "Existing plus Project Buildout" scenario (which is not useful for determining 2030 growth), and the "Existing plus Project (2030)" scenario (which is based on 2004 AMBAG assumptions, not the General Plan). The DEIR does not include a 2007 General Plan growth scenario with incorporated areas held constant, therefore it fails to provide the most basic data necessary to determine General Plan impacts.

In fact, the DEIR does not explain which scenario supports the significance conclusion that Impact AQ-3 is less than significant for all but winery emissions. (DEIR, 4.7-29). The DEIR attempts to imply that emissions are reduced under the proposed General Plan by showing emissions reductions under the "2030 Project Increase" scenario in Table 4.7-6. Such a conclusion is flawed for at least two reasons: 1) the "2030 Project Increase" scenario is based on 2004 AMBAG growth projections, not the proposed General Plan, and 2) the apparent emissions reductions actually result from improvements in vehicle and fuel technology, not anything associated with the proposed General Plan (this flaw in claiming technology benefits is described in more detail later in this letter).

The flawed air quality analysis and significance determination is further evidenced by frequent inconsistent and contradictory statements in the DEIR. For example, the "Significance Determination" section of Impact AQ-3 states, "Implementation of the 2007 General Plan would result in increased emissions of criteria pollutants and VOCs." (DEIR, 4.7-26) But then the "Significance Conclusion" section of Impact AQ-3 states that, "...implementation of the 2007 General Plan would result in a decrease in ROG, NOx, CO, PM2.5, and PM10 emissions." (DEIR, 4.7-28)

III. Quantification Inconsistencies

Table 3-8 in the Project Description chapter of the DEIR shows that 10,015 new residential units are planned in unincorporated Monterey County by 2030. Table 4.6-11 in the Transportation chapter shows that under the "Cumulative 2030" scenario, housing units in the unincorporated area increase from 35,252 units to 48,690 – an increase of 13,438 dwelling units. Inconsistencies within the DEIR related to critical information such as housing growth should be corrected so that all analyses are based on the same assumptions.

Inconsistent information in the DEIR continues with the representation of existing conditions in Table 4.6-11. The DEIR states that existing conditions are based on 2008 roadway conditions. (DEIR, 4.6-22). But the only existing condition, or environmental

64

64

65

O-11g

baseline, in Table 4.6-11 is for "Year 2000". The DEIR should have provided population, housing, and employment data specifically for the year 2008 baseline. The same 2008 baseline scenario should have been the basis for VMT and emissions estimates found in Table 4.7-3, 4.7-5, and 4.7-6. Travel modeling and emissions modeling specific to the 2008 environmental baseline should have been performed and consistently used throughout the DEIR. Since vehicle travel and emissions vary over time, the use of two different baseline years leads the DEIR to unreliable travel and emissions conclusions.

IV. Failure to Properly Substantiate Air Quality Analysis Assumptions and Methodology

The claimed emission impacts of the various analysis scenarios are not substantiated by evidence in the DEIR or supplementary information provided by Monterey County. Table 4.7-5 of the DEIR contains a summary of emissions modeling results for five analysis scenarios. It is impossible to verify the accuracy of these results since the DEIR does not include a complete description of the assumptions and methodology that directly result in the claimed emissions. Although the DEIR claims that Appendix A contains the necessary data and method descriptions, it does not. Appendix A is the Notice of Preparation.

An October 3, 2008 letter from Wendy Strimling, County of Monterey, to John Farrow, acknowledged that the reference to Appendix A was a "typo." Ms. Strimling's letter also responded that there was no source document for Table 4.7-3, that it was prepared by Kimley-Horn and Associates, that its population and employment projections were based on Section 4.6.3.1 and 4.6.3.2 of the DEIR, and that VMT for each scenario was developed using the AMBAG travel demand forecasting model. Then, on October 7, 2008, the County provided a two-page document titled "Air Quality Technical Information", a similar document related to Carbon Monoxide modeling, two printouts from the EMFAC 2007 emissions model, and summaries of population and housing for traffic analysis zones (TAZ) prepared by Kimley-Horn and Associates. Although this supplementary information improves on the DEIR's complete lack of substantiating data, it remains incomplete and still does not allow for independent review of the emissions estimate accuracy. There is no transparent connection between the data and explanation provided by the County during October 2008 and the emissions estimates claimed in Table 4.7-5.

Specifically, the supplementary information provided by the County in the "Air Quality Technical Information" document includes a general description of the EMFAC 2007 model and a two-paragraph description of modeling procedures. From the scant information provided, it appears that the traffic modeling was far too simplistic to provide meaningful results. For example, the modeling was based on the same average traffic speed assumption (23 mph) for each analysis scenario in both 2008 and 2030². Instead, traffic speeds should vary based on the type of roadway (such as residential street versus

² County of Monterey, "Air Quality Technical Information", Table 1, p. 2.

65

66

O-11g

highway), roadway capacity during different analysis years, changes in the type and density of development, and other traffic and land use variables. Essentially, the General Plan would result in population and VMT growth, which should change the amount of congestion assumed in the traffic modeling, which in turn would be expected to change traffic speeds over time. According to the County's description, only "selected roadway segments" were adjusted to account for congestion. But there is no disclosure of which roadways were "adjusted" and no disclosure of the range of adjustments made. Were these adjustments limited in scope to just speed, or were other adjustments made such as vehicle volume (trips and VMT), roadway capacity, or were there other changes? Were the adjustments made for the 2008 scenario different than the adjustments made for the 2030 scenario? If so, how did they differ? Presumably, the traffic modeling performed by the County's consultant included more detailed assumptions, but that information is not provided in the record. Since emissions are directly related to traffic modeling, the vehicle emissions results claimed in the DEIR have not been adequately supported.

66

Similarly limited information provided by the County on October 7, 2008 appears in the four attachments showing population, housing, and employment in each traffic analysis zone (TAZ). Presumably, each of the four attachments corresponds to one of the DEIR analysis scenarios. But the attachments are not titled or described consistent with the DEIR scenario titles. As an example of the naming inconsistencies, one of the attachments is titled "Existing Buildout of Project LU Summary by TAZ-2". Is that attachment meant to document assumptions for the "existing" scenario or the "buildout" scenario? And there are only four attachments; one short of the five scenarios in the DEIR. Not only did the County fail to explain how the attachments correlate to the scenarios in the DEIR, there is no documentation of the source of the data. Upon what did the County base the population, housing, and employment projections in each of the four attachments? Are those sources consistent with sources for similar data claimed in the DEIR? The failure to substantiate these assumptions further calls into question the validity of the DEIR traffic modeling, as well as the resulting emissions impacts.

V. Inconsistency with Air Quality Management Plan

Impact AQ-1 of the DEIR claims that conflicts with the Air Quality Management Plan are less than significant (DEIR, 4.7-13). Impacts are evaluated separately for the 2030 Planning Horizon and for Buildout in 2092. The DEIR improperly concludes that 2030 Planning Horizon impacts are less than significant (DEIR, 4.7-17). In making this incorrect determination, the DEIR makes factual errors in reference to population projections in the Air Quality Management Plan (AQMP) adopted by the Monterey Bay Unified Air Pollution Control District (MBUAPCD).

67

The DEIR claims that the population projected in the MBUAPCD "Clean Air Plan"³ is 602,371 in 2030. This claim is inaccurate and overstates the population projection in the MBUAPCD Plan. In fact, the MBUAPCD Plan projects a Countywide population of

³ The DEIR refers to the MBUAPCD "Clean Air Plan", which more accurately is titled the "2008 Air Quality Management Plan."

O-11g

only 515,549 in 2030⁴. The 2030 Cumulative population projection of 602,790 in Table 4.7-3 of the DEIR is significantly higher than the MBUAPCD Plan and therefore should have been identified as a significant impact. Note that the 2030 Cumulative population estimate in the DEIR is higher than the MBUAPCD Plan for both the Countywide estimate as well as the unincorporated area alone estimate.

67

VI. Improper Association of Vehicle and Fuel Technology Improvements with the General Plan Result in Faulty Criteria Pollutant Significance Conclusion

The DEIR concludes that impact AQ-3, the net change in ozone precursors and particulate matter, is less than significant except for winery emissions. (DEIR 4.7-29) The basis for this conclusion is summarized by the statement "... [I]mplementation of the 2007 General Plan would result in a decrease in ROG, NOx, CO, PM2.5, and PM10 emissions." (DEIR, 4.7-28) It is inaccurate to claim that the General Plan results in a net decrease in emissions. The General Plan would result in growth, and that growth would increase emissions. The emissions increase is virtually certain to be a significant impact not identified in the DEIR.

68

Population and VMT increase under the General Plan, therefore emissions from mobile sources must necessarily increase. Table 4.6-11 shows that under the "Cumulative 2030" scenario, housing units in the unincorporated area increase from 35,252 units to 48,690 – an increase of 13,438 dwelling units. Table 4.7-6 shows that annual VMT increases by 369,679 under the "2030 with Project" scenario.⁵ The only scenario under which mobile source emissions would not increase under growth conditions is if all incremental VMT were produced by zero emission vehicles (electric, fuel cell, or other future technology). Even under such unlikely conditions, emissions would not decrease because of the proposed 2007 General Plan. Emissions could only decrease if VMT were reduced, and the DEIR does not claim net VMT reductions.

The apparent reduction actually results from vehicle and fuel technology improvements that reduce emissions from the *existing* vehicle fleet. The proposed General Plan has no impact on vehicle technology benefits, and the emission reductions are completely independent of General Plan policy. State and federal motor vehicle emission standards are responsible for emission reductions resulting from vehicle and fuel technology improvements. Mobile source emissions are reduced within Monterey County as older vehicles are replaced with newer, less polluting models. It is inaccurate for the General Plan DEIR to claim emissions reductions from vehicle technology because those reductions will occur with or without approval of the General Plan. This is an especially

⁴ MBUAPCD, 2008 Air Quality Management Plan, August 20, 2008 Revision, Table 1-1, pg. 1-4.

⁵ Note that the "2030 with Project" scenario used in the DEIR to estimate the VMT increase of 369,679 is based on AMBAG traffic modeling from 2004. The VMT increase should have been modeled using conditions under the proposed General Plan. Since the DEIR does not identify VMT increases specific to the unincorporated area under the 2007 General Plan, the "2030 with Project" scenario is used in this comment.

O-11g

important error since the significance determination for impact AQ-3 is based on these reductions.

To correct for this error, the DEIR should have modeled emissions from existing vehicles (baseline VMT) and new vehicles (VMT growth) in the same 2030 planning horizon. Specifically, the baseline emissions in Table 4.7-6 should have been calculated as the VMT from the year 2000⁶ occurring during the year 2030. The EMFAC 2007 model used for all the scenarios in the DEIR should be used to calculate this scenario. Using this modeling approach would “zero out” emissions reductions caused by vehicle technology improvements. This corrected baseline scenario would allow for the disclosure of emissions associated with VMT growth under the proposed General Plan, which is fundamental to understanding the specific emissions impacts of the proposed General Plan.

68

VII. Lack of Connection Between Growth Assumptions and Traffic Modeling

The DEIR concludes that “Implementation of the 2007 General Plan would result in the development of new urban areas and new infrastructure in the Community Areas, Rural Centers, and AHOs.” (DEIR, 4.1-14). There is no transparent connection between the growth resulting from these specific land use changes and the traffic and emissions modeling described in the DEIR. Other than the data presented by Planning and Community Areas in Table 3-8, the DEIR does not disclose specifically where growth in employment and housing is projected to occur and how that growth was added to the assumptions used in traffic modeling, which forms the basis for the VMT estimates used in emissions modeling. In response to LandWatch’s request for the assumptions used for the traffic and air quality analyses, the County provided the incomplete and inadequately described sets of population, housing, and employment data by TAZ discussed above. As noted, the information provided does not enable the public to determine how the DEIR actually projected growth as a consequence of the 2007 General Plan.

69

The specific location of planned new growth is critical information and is necessary to determine the emissions impact of the general plan, but this information is not provided in the DEIR. This is especially important because the DEIR describes the intent of the County to not perform project level CEQA analysis for projects that are consistent with the General Plan:

“Where projects are found to be consistent with the development density established by the 2007 General Plan and within the scope of the EIR certified for that Plan, additional environmental review will not be necessary...” (DEIR, 3-9)

The County will not be able to accurately determine consistency of future projects unless the General Plan DEIR detailed growth assumptions for each year through 2030 at the

⁶ The DEIR provides year 2000 VMT in Table 4.7-3. As explained previously, the DEIR should instead provide year 2008 data as the baseline.

O-11g

parcel level, or at least TAZ level. By not providing this detail in the General Plan DEIR, there is not sufficient baseline data upon which to determine whether future development projects are consistent with planned development density.

69

Thus, the DEIR lacks the data necessary to properly evaluate project-specific impacts, and improperly concludes that future project-specific environmental review is not necessary.

VIII. Faulty VMT Assumptions

Comparison of the DEIR’s estimates for VMT growth to the population growth estimates show that either the traffic modeling or population estimate is based on flawed assumptions. Table 4.6-11 shows that under the “Cumulative 2030” scenario, population increases from 95,047 to 131,213 – an increase of 36,166 people. Table 4.7-6 shows that annual VMT increases by 369,679 under the “2030 with Project” scenario.

70

If the population and VMT estimates are correct, this would mean that each new resident drives just over 10 miles per year. Clearly, this is unrealistic.

IX. Construction Impacts are Not Mitigated to Less Than Significant Level

Impact AQ-2 discusses construction related particulate and ozone precursor emissions. Despite the fact that construction emissions are a “large source of NOx and diesel particulate matter,” (DEIR, 4.7-18) the DEIR does not provide a quantitative analysis of construction emissions and potential significant impacts. This is an unacceptable oversight especially in light of the County’s intention to rely on this DEIR instead of performing project-specific environmental review for future development projects. Even the qualitative discussion in the DEIR does not adequately support the claim that construction related impacts are mitigated to less than significant.

71

First, the DEIR claims that only PM10 emissions are potentially significant (DEIR, 4.7-20). In addition to PM10, the DEIR should have identified ozone precursors (ROG and NOx) as a potentially significant impact. The DEIR states that ROG and NOx emissions have been included in the regional emissions budget, and presumably relies on this to exclude ozone precursors from the determination of potentially significant impacts. The apparent presumption is that emissions included in an emission inventory need not be analyzed. This is clearly inconsistent with CEQA requirements. Fundamentally, all emissions from all known sources are included in the emission inventory, and virtually every emission control program at the federal, state, and local level is designed to reduce emissions that are documented in an emission inventory. Therefore, construction emissions of ozone precursors are a critical component of the overall emissions impact of the proposed General Plan. If ozone precursor emissions cannot be mitigated to less than significant levels, those emissions must be identified as a significant impact.

O-11g

Regarding PM10 emissions, the DEIR relies on Mitigation Measures AQ-1 through AQ-3 to reduce impacts to less than significant. The determination of less than significant impacts is flawed for several reasons. First, Mitigation Measure AQ-1 proposes a "revision" to General Plan policy OS-10.5 to require implementation of MBUAPCD PM10 control measures. But this suggested mitigation is at best vacuous since General Plan policy OS-10.9 already requires implementation of MBUAPCD control measures.

The DEIR's treatment of the "revision" as an *additional* mitigation measure makes it clear that, despite the DEIR's recitation of proposed General Plan policies, including *Policy OS-10.9*, as the basis of its impact analysis (DEIR, pp. 4.7-18 to 19), consideration of these policies did not actually inform the DEIR's significance conclusion. Note also that the DEIR recites that "there are no policies applicable to air quality" in the South County, Toro, and Central Salinas Valley Area Plans, but then concludes that the South County, Toro, and Central Salinas Valley Area Plan air quality policies "would reduce air quality impacts in the AWCP area that overlays these Planning Areas (DEIR, p. 4.7-19). The inconsistencies and apparent failure to consider the content of the recited General Plan policies demonstrate the inadequacy of the DEIR's qualitative evaluation of construction impacts.

Furthermore, the "revision" of OS-10.5 proposed as Mitigation Measure AQ-1 could *increase* operational emissions since the change would replace an unrelated and otherwise beneficial policy related to encouraging mixed land uses that reduce VMT.

Second, Mitigation Measure AQ-2 proposes a revision to General Plan policy OS-10.6. But that policy already supports MBUAPCD "air pollution control strategies, air quality monitoring and enforcement activities". The proposed revision would actually weaken the policy by limiting its application to off-road and heavy equipment emissions.

Third, Mitigation Measure AQ-3 relates to operational emissions, not construction emissions, and therefore would not reduce construction impacts. In total, the proposed mitigation would do nothing to reduce construction emissions and might actually increase emissions.

X. Health Risk From Diesel Particulate Matter is Not Mitigated to Less Than Significant (Localized Risk)

The DEIR concludes that Impact AQ-4 related to the health risk from exposure to diesel particulate matter is less than significant after mitigation (DEIR, 4.7-30). The conclusion is not supported by any quantitative analysis, but rather by vague and unsubstantiated statements combined with misrepresentation of risk assessment protocols established by the State of California.

The DEIR correctly points out that risk assessments performed to determine cancer risk from diesel particulate exposure are typically based on a 70-year exposure period. But then the DEIR dismisses the localized risk because 1) the duration of individual construction projects is less than 70 years, and 2) "exposure will be minimal due to the types of proposed projects" (DEIR, 4.7-30). Both of these statements, intended to

71

72

O-11g

support the less than significant determination, are insufficient. The 70-year exposure period is a health risk assessment modeling parameter established by the California Office of Environmental Health Hazard Assessment.⁷ The exposure period is meant to be consistent with an expected human lifetime, and should not be interpreted to limit applicability to sources that emit toxics for at least 70 years. In fact, most toxic sources affect an individual human receptor for less than the human's entire life, either because the source changes its location or emissions intensity, or the human receptor moves to a new location. Nevertheless, OEHHA recommends the 70-year exposure timeframe even if the impact duration is shorter. The second justification statement, that somehow the "types of proposed projects" will minimize exposure, is so vague that it is virtually meaningless. Does the DEIR mean to suggest that roadway or development projects will not emit diesel particulate emissions similar to other construction projects, or that construction will not occur in the vicinity of sensitive receptors such as residences, schools, hospitals, etc.?

The California Air Resources Board recognizes the importance of cancer risk from construction projects. According to an ARB analysis of a hypothetical construction project⁸, cancer risk from construction activity can exceed 10 cases in a million for an area of 26 acres surrounding a construction site.

Rather than dismiss the potential for localized health risk from diesel particulate matter, the DEIR should have performed a health risk assessment on a worst-case construction scenario to quantitatively determine the potential for significant impacts. The health risk assessment would be performed by using the U.S. EPA-approved dispersion model called AERMOD. The AERMOD model predicts the concentration of pollutants in the air, factoring in meteorological conditions such as wind speed, direction, temperature, and other factors such as proximity of sensitive receptors.

For additional modeling guidelines, the California Office of Environmental Health Hazard Assessment (OEHHA) has published guidance for the preparation of risk assessments. The OEHHA guide provides detailed modeling information as well as recommended cancer potency values that are used to determine cancer risk based on DPM concentration. The complete OEHHA guidance document is available for reference at http://www.oehha.ca.gov/air/hot_spots/IRAguidesfinal.html.

The County should prepare a health risk assessment to determine potential health risk for a worst-case construction project or projects as permitted by the proposed General Plan.

XI. Health Risk From Diesel Particulate Matter is Not Mitigated to Less Than Significant (Regional Risk)

⁷ California Office of Environmental Health Hazard Assessment, http://www.oehha.ca.gov/air/hot_spots/IRAguidesfinal.html

⁸ California Air Resources Board, *Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Proposed Regulation for In-Use Off-Road Diesel Vehicles*, April 2007, p. 12

72

73

O-11g

The DEIR acknowledges that the health risk from regional exposure to diesel particulate matter is a potentially significant impact (DEIR, 4.7-31). As discussed above regarding localized impacts, the DEIR fails to provide a quantitative analysis of potential health risk from regional impacts. Instead, the DEIR attempts to support a less than significant determination by identifying policies and mitigation measures that claim to reduce diesel emissions to less than significant levels. But the identified policies do not meaningfully relate to diesel toxic emissions. And the mitigation measures, while directionally beneficial, are not sufficiently comprehensive to reduce impacts to less than significant.

First, the DEIR identifies General Plan policies OS-10.6 and OS-10.9. These policies help to reduce emissions in general, but are primarily focused on reducing particulate matter from dust, which is not a toxic air contaminant. These policies do not substantially reduce diesel particulate matter. Next, the DEIR lists Area Plan policies that presumably reduce diesel particulate matter. But again, the Area Plan policies are simply general air quality policies. In fact, three of the Area Plans do not address air quality at all. Other Area Plans, such as the Central Salinas Valley Area Plan, reduce emissions from sources other than diesel particulate matter (in this case, reductions are from alternative sources of energy production which would otherwise be powered primarily by natural gas power plants – not a source a diesel particulate matter).

Mitigation Measures AQ-6 and AQ-7 are identified to specifically reduce the health risk from diesel particulate matter. But each measure is limited in scope and together are not sufficient to reduce impacts to less than significant. Measure AQ-6 requires that the County enter into contracts only with contractors who use "soot traps", ultra-low sulfur fuels, or take other actions to reduce PM10 emissions by 50 percent. First, this measure should not be limited to County contracts. It should apply to any public or private project in Monterey County, either as project-specific mitigation or as a condition of approval. Next, the term "soot traps" presumably refers to diesel particulate filters (DPF). The Measure should require the highest level of particulate reductions available. The California Air Resources Board administers a verification program for DPFs and other emissions control devices, and the highest level exhaust particulate reduction is 85 percent.⁹ At a minimum, the mitigation measure should require an 85 percent reduction in exhaust particulates, not 50 percent. However, even with these suggested improvements, the health risk from diesel particulate matter is not eliminated and remains potentially significant.

Finally, Mitigation Measure AQ-7 prohibits the location of some sensitive receptors to at least 500 feet away from high volume roadways. This measure has merit for reducing exposure to diesel particulate emissions from roadways, but it should not be limited to the identified land use types. In addition to schools, hospitals, and elderly facilities, the measure should include residential uses. In the CARB Air Quality and Land Use

⁹ DPFs that achieve 85 percent exhaust particulate reduction are classified by CARB as "Level 3" devices. For a complete list of verified Level 3 devices, see the CARB webpage at <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>

73

O-11g

Handbook discussed on page 4.7-33 of the DEIR, residential uses are the most common sensitive receptor identified.

73

If you have any questions regarding these comments, please feel free to contact me.

Sincerely,



Greg Gilbert

O-11g

Greg Gilbert
Autumn Wind Associates, Inc.
P.O. Box 1030
Newcastle, CA 95658
(916) 663-2222
ggilbert@autumnwind.us

STATEMENT OF QUALIFICATIONS

Education

University of California, Santa Barbara: B.A., Env. Studies, 1982
Graduate and Professional Studies in Law, Planning, Emissions Modeling

Professional History

Greg Gilbert has consulted on air quality land use planning and mobile source issues and projects to private and public clients since forming Autumn Wind Associates in 2001. Previously, he was marketing director for a specialty emissions catalyst manufacturer. Between 1990 and 2000 Mr. Gilbert worked in two California air agencies, most recently as project manager in the Mobile Source Division of the Sacramento Metropolitan Air Quality Management District. While at the SMAQMD, Mr. Gilbert was responsible for implementing the District's heavy-duty vehicle low-emission incentive program that would later serve as a model for creation of the statewide Moyer Program. Air agency experience included evaluating land use-related air quality emission impacts and control strategies, developing CEQA mitigations and updating CEQA guidance, and creation of the first in-lieu air quality CEQA mitigation fee program.

Since leaving the SMAQMD he has provided consulting expertise to air agencies, provided input for revisions to the URBEMIS model, conducted research on construction practices and equipment emissions, and assisted with development of air district CEQA land use guidance documents and mitigation strategies. Mr. Gilbert has reviewed CEQA project-specific environmental documentation and provided expert written comments and testimony for public-, private-, and environmental-sector clients.

O-11g

EXHIBIT 13

O-11g



545 Middlefield Road, Suite 200
Menlo Park, CA 94025-3472
Tel: (650) 327-0429
Fax: (650) 327-4024
www.TRAenviro.com

January 29, 2009

John Farrow
M. R. Wolfe & Associates, P.C.
Attorneys-At-Law
49 Geary Street, Suite 200
San Francisco, CA 94108

RE: Comments on the Draft Environmental Impact Report for the 2007 Monterey
General Plan

Dear Mr. Farrow:

At your request, TRA Environmental Sciences has reviewed the Draft Environmental
Impact Report for the 2007 Monterey General Plan prepared by ICF Jones & Stokes
dated September 2008.

As you know, our firm specializes in conducting biological analyses for CEQA and
NEPA documents. We have been working in this field, as well as the field of habitat
conservation planning and natural community conservation planning, for over twenty-
five years. We are familiar with many of the special status species that occur in the
greater San Francisco Bay Area including the Santa Cruz and Monterey County coast
side. Please refer to our firm qualifications and professional biography, which are
attached.

In sum, the DEIR does not adequately evaluate and mitigate impacts to biological
resources for the following reasons:

- The DEIR does not provide substantive analysis of impacts to biological resources based on correlating the expected location and intensity of development and the affected resources. Most of the impact analyses consist of recitations of lists of policies from the 2007 General Plan without any meaningful discussion linking those policies to impact avoidance, minimization, or compensation. Many of the policies lack any substantive content, e.g., lack any performance standards or examples of the content of implementing programs. Many of the policies defer the formulation of mitigation without deadlines for completion or interim measures. No reasons are given for these deferrals. Many of the policies lack any enforceable mandate. We have provided detailed comments on most of the policies cited as the basis for the DEIR's impact analyses.

74

Conservation Planning and Implementation Environmental Impact Analysis
Geographic Information Systems Wetland Delineation Biological Surveys

O-11g

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 2

- Mitigation measures that are proposed to supplement the 2007 General Plan policies suffer from the same defects as the policies themselves.
- Substantial new agricultural cultivation, especially vineyard development, is projected in the County, but the DEIR fails to describe this activity accurately. The description of winery corridor is inconsistent and incomplete. Because these activities will have significant effects on biological resources, they must be accurately described.
- Impacts to movement corridors and habitat fragmentation were not adequately evaluated because the DEIR did not develop or consider available empirical information about important conservation areas, movement corridors, and habitat linkages.
- Mitigation of habitat fragmentation and interruption of movement corridors and habitat linkages is inadequate. The mitigation of these landscape-scale impacts must be formulated in a first-tier EIR, not postponed to future project-level CEQA reviews, particularly since much of the development activity that will affect these resources is to be exempted from future CEQA review.
- The DEIR failed to evaluate steelhead impacts from increased diversions from the Salinas River, continued operation of the Nacimiento and San Antonio Dams to support growth, and sedimentation.
- Although the DEIR acknowledges that growth will make a considerable contribution to cumulatively significant impacts, it proposes no mitigation to address this.

74

1. Policies identified to address impacts to biological resources are not adequate

The DEIR concludes on the basis of a list of policies and three new mitigation measures that impacts to special status species through 2030 will be less than significant. DEIR, pp. 4.9-64 to 4.9-76. Similarly, the DEIR concludes on the basis of reciting these policies and three additional mitigation measures that impacts to natural communities will not be significant through 2030. DEIR, pp. 4.9-79 to 4.9-89. The DEIR again recites these policies and one new mitigation measure as the basis of its conclusion that impacts to movement corridors and nursery sites through 2030 will not be significant. DEIR, pp. 4.9-89 to 4.9-99. And it recites them in support of its conclusion that impacts related to loss of protected trees will be less than significant. DEIR, pp. 4.9-99 to 4.9-102.

75

The policies recited do not provide a reasonable basis for this conclusion for a number of reasons, as detailed in the table below, including the following repeated deficiencies:

- Many of the policies call for activities, programs, or ordinances to be identified or developed later, but the policies do not contain performance standards or provide

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 3

O-11g

- Many policies calling for action by the County do not identify responsible agencies, ensure that adequate resources will be available, specify schedules for implementation, or provide for alternative measures pending full implementation.
- Many policies are not enforceable because they call for voluntary action or merely call for encouraging and supporting beneficial activities.

75

Set forth in the table below are detailed comments on the policies identified by the DEIR as the basis of its significance conclusions. (Comments on the proposed additional mitigation measures follow in Sections 2, 3, and 5.) Since CEQA requires the County to adopt all feasible mitigation, these policies must be strengthened, or additional mitigation measures must be proposed, to address the defects identified.

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 4

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts

LAND USE POLICIES The DEIR states that "The 2007 General Plan Land Use Element emphasizes compact city-centered growth and discourages the encroachment of urban uses into undeveloped areas. Land Use Element Policies LU-1.1 through LU-1.9 promotes appropriate and orderly growth and development while protecting desirable existing land uses." DEIR, p. 4.9-67. The policies were also cited as the basis of the DEIR's conclusion that impacts to special status species, habitat, and movement corridors would be less than significant. DEIR, pp. 4.9-67, 4.9-80, 4.9-90.

- As noted below, these policies do address conversion of habitat for agricultural use.
- Furthermore, the DEIR's claim that 80% of development will be in focused growth areas (DEIR, p. 4.9-75) is irrelevant. The question is how much development will occur where there are biological resources. The DEIR does not provide any real description of the extent and location of rural development. Furthermore, the Policies creating disincentives for growth in focused growth areas (e.g., requirements for plans and infrastructure) actually create incentives for scattered/sprawl development on legal lots of record and rural subdivisions.
- Policy LU 1.19 is in conflict with promotion of city-centered growth by LU 1.1 to 1.9. Policy LU 1.19 states that growth in designated growth areas is a "priority," but then proposes to permit rural subdivisions in accordance with a "Development Evaluation System" (DES) that has not yet been devised, and for which no standards are identified. The DES is supposed to "provide a systematic, consistent, predictable, and quantitative method" to evaluate rural subdivisions. The policy lists a number of "criteria" including "Site Suitability, Infrastructure, Resource Management, Proximity to a City, Community Area, or Rural Center, Mix/Balance of uses including Affordable Housing consistent with the County Affordable/Workforce Housing Incentive Program adopted pursuant to the Monterey County Housing Element; Environmental Impacts and Potential Mitigation, Proximity to multiple modes of transportation, Jobs-Housing balance within the community and between the community and surrounding areas, Minimum passing score." These "criteria" are actually vague parameters without any stated values. How will site suitability be assessed and quantified? How will environmental impacts and potential mitigation be assessed and quantified? How will all of these considerations be weighed against each other? The "criteria" do not provide any performance standards or provide any real basis to determine how much rural development will be permitted, where it will be permitted, and what its effects will be. Under Policy LU 1.19, a DES could be devised that would permit essentially any development as long as some lip service is paid to each parameter. As it is written, Policy LU 1.19 cannot be said to control or limit rural development because the policy has no substantive content. Given this lack of content, it is apparent that the DEIR's conclusion that only 20% of future development will occur outside of focused growth areas (see Table 3-8) cannot have been based on any consideration of LU 1.19. Please explain on what basis the DEIR projected that only 20% of development would occur outside of focused growth.

75

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 5*

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
	<p>areas. Please explain how the undefined DES system can be said to control rural growth, if the DEIR so assumes. Please explain how growth in the focused growth areas will be made a "priority" other than through the to-be-devised DES.</p>
LU-1.1 The type, location, timing, and intensity of growth in the unincorporated area shall be managed.	<ul style="list-style-type: none"> This policy has no substantive mandate related to biological resources. The policy is such a general statement that any action to manage growth would be consistent, even action that permitted substantial rural sprawl. There is no apparent program to manage growth of the conversion of habitat for agricultural use.
LU-1.2 Premature and scattered development shall be discouraged.	<ul style="list-style-type: none"> If the policy is intended to be applied in evaluating individual projects, it is not enforceable because it contains no objective standards. If the policy is intended to direct some programmatic activity by the County other than permitting activity, it will not be effective because it lacks any standards for or examples of such programs.
LU-1.3 Balanced development of the County shall be assured by designating adequate land for a range of future land uses.	<ul style="list-style-type: none"> This policy has no substantive mandate related to biological resources. No analysis is provided to demonstrate that the land use designations will in fact ensure sufficient habitat. Please provide evidence that land use designations will ensure sufficient habitat for each special status species.
LU-1.4 Growth areas shall be designated only where an adequate level of services and facilities such as water, sewerage, fire and police protection, transportation, and schools exists or can be assured concurrent with growth and development. Phasing of development shall be required as necessary in growth areas in order to provide a basis for long-range services and facilities planning.	<ul style="list-style-type: none"> Despite this policy, the DEIR's Table 3-8 projects that 20 percent of future development will occur outside designated growth areas. Furthermore, the basis of the Table 3-8 projection of future development in each area of the County is not evident. Please explain how this projection was made. The policy does not address or constrain the conversion of habitat to agricultural uses, which will have substantial consequences for special status species. See discussion below in Sections 4 and 5.
LU-1.5 Land uses shall be designated to achieve compatibility with adjacent uses.	<ul style="list-style-type: none"> Please provide evidence that the proposed land use designations in the 2007 General Plan achieve compatibility with adjacent habitat. Please explain how this policy would ensure that future land use re-designations will achieve compatibility with adjacent habitat. What parameters and values related to habitat protection must be considered in future land use designations, i.e., what are the relevant performance standards to allow a particular land use to be adjacent to habitat?
LU-1.6 Standards and procedures to assure proper levels of review of development siting, design, and landscaping shall be developed.	<ul style="list-style-type: none"> This policy does not actually identify the standards and procedures or explain what "proper levels of review" would be. Please identify the standards and procedures and explain what the proper level of review would be. Please explain in particular how the absence of

75

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 6*

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
	<p>discretionary review of routine and ongoing agricultural activity, including cultivation of previously uncultivated land, will ensure that a proper level of review occurs to protect habitat.</p>
LU-1.7 Clustering of residential development to those portions of the property which are most suitable for development and where appropriate infrastructure to support that development exists or can be provided shall be strongly encouraged. Lot line adjustments among four lots or fewer, or the re-subdivision of more than four contiguous lots of record that do not increase the total number of lots may be allowed pursuant to this policy without requirement of a general plan amendment.	<ul style="list-style-type: none"> Policies that merely encourage clustering are not enforceable as to any particular development proposal, particularly in the absence of any enforceable, objective standards for identifying portions of the property that are "suitable" for development. Please explain how this policy could be enforced to protect habitat.
LU-1.8 Voluntary reduction or limitation of development potential in the rural and agricultural areas through dedication of scenic or conservation easements, Transfer of Development Rights (TDR), and other appropriate techniques shall be encouraged. The Transfer of Development Credit (TDC) in the Big Sur Land Use Plan is a separate program to address development within the critical viewshed. A TDR Program shall be established to provide a systematic, consistent, predictable, and quantitative method for decision-makers to evaluate receiver sites in areas of the unincorporated County with priority for locations within Community Areas and Rural Centers. The program shall include a mechanism to quantitatively evaluate development in light of the policies of the General Plan and the implementing regulations, resources and infrastructure, and the overall quality of the development. Evaluation criteria shall include but are not limited to: a. Site Suitability b. Infrastructure c. Resource Management d. Proximity to a City, Community Area, or Rural Center. e. Environmental Impacts and Potential Mitigation f. Proximity to multiple modes of transportation g. Avoidance of impacts to productive farmland	<ul style="list-style-type: none"> The policy does not create any enforceable mandate because it depends on voluntary measures. Neither the TDR program nor the "other appropriate techniques" are spelled out. Please explain how protection of biological resources will be "quantitatively" evaluated and how these values will be weighed against other criteria. Please explain how, in the absence of any details, the DEIR determined that this program will meaningfully contribute to avoidance of impacts to biological resources.
LU-1.9 Infill of vacant non-agricultural lands in existing developed areas and new development within designated urban service areas are a priority. Infill development shall be compatible with surrounding land use and development.	<ul style="list-style-type: none"> This policy does not explain how infill will be made a priority. Please explain how this prioritization would work in the context of a decision whether to approve a specific proposed development project that is an infill project. Please also explain how this prioritization would work in the context of a decision whether to approve a specific proposed development project that is <i>not</i> an infill project. Please explain how, in the absence of any details about

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 7

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
	<ul style="list-style-type: none"> how prioritization is to work, the DEIR determined that this program will meaningfully contribute to avoidance of impacts to biological resources.
<p>The DEIR states at page 4.9-9.0 that "development on properties with residential land use designations location within the Toro Area Plan along the Highway 68 corridor, Greater Salinas Area Plan north of the City of Salinas between Williams Road and Highway 101, and the North County Area Plan are limited to the first single family home on a legal lot of record. Creation of new lots in the Carmel Valley Area is capped at 266 new lots."</p>	<ul style="list-style-type: none"> Table 3-8 shows for Toro that there are only 251 vacant residential lots, but projects 541 new potential units. Please explain this.
<p>OPEN SPACE POLICIES RELATED TO GOAL OS-1, RETAIN THE CHARACTER AND NATURAL BEAUTY OF MONTEREY COUNTY BY PRESERVING, CONSERVING, AND MAINTAINING UNIQUE PHYSICAL FEATURES, NATURAL RESOURCES, AND AGRICULTURAL OPERATIONS. These policies were identified as one basis for the DEIR's conclusion that impacts to movement corridors and nursery sites would be less than significant through 2030. DEIR, pp. 4.9-9.0.</p>	<ul style="list-style-type: none"> Since the express purpose of these policies is primarily to protect viewsheds rather than biological resources, any benefits to biological resources would be incidental. See specific comments below.
<p>OS-1.3 To preserve the County's scenic qualities, ridgeline development shall not be allowed. An exception to this policy may be made only after publicly noticed hearing and provided the following findings can be made:</p> <p>a. The ridgeline development will not create a substantially adverse visual impact when viewed from a common public viewing area; and,</p> <p>b. That the proposed development better achieves the goals, policies and objectives of the Monterey County General Plan and applicable area plan than other development alternatives; or,</p> <p>c. There is no feasible alternative to the ridgeline development.</p>	<ul style="list-style-type: none"> This policy is focused on scenic rather than biological resources, including movement corridors. It permits exceptions based primarily on whether there are adverse impacts to scenic resources. The other criteria for exceptions are not enforceable because there are no objectives specified for identifying the relevant "development alternatives." Please explain how development alternatives would be identified for a project whose proponent seeks to develop a particular ridgeline parcel with a particular use. How will the County use this policy to ban any development of a ridgeline parcel in view of other development alternatives if the proponent does not own or wish to develop alternative parcels or does not wish to consider alternative uses for a ridgeline parcel.
<p>Pursuant to Policy OS-1.6, in areas subject to specific plans, the ridgeline policies and regulations of the applicable specific plan shall govern.</p>	<ul style="list-style-type: none"> Furthermore, there are no objective standards for determining whether "development alternatives" will "better achieves the goals, policies and objectives of the Monterey County General Plan and applicable area plan." As written, any such determination will be an exercise in standardless discretion and cannot be said to protect biological resources, including movement corridors. Please explain how "feasible alternatives" to ridgeline development would be determined. Would feasibility be determined with reference to a particular development proponent's economic situation? If so, how can the policy prevent ridgeline development by a proponent who simply seeks the highest return from his land?

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 8

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
<p>OS-1.4 Criteria shall be developed to guide the design and construction of ridgeline development where such development has been proposed pursuant to Policy OS-1.3.</p>	<ul style="list-style-type: none"> Since the criteria have not been developed, there are no enforceable standards on the basis of which the DEIR can conclude that this policy would protect biological resources, including movement corridors.
<p>OS-1.5 New subdivisions shall avoid lot configurations which create building sites that will constitute ridgeline development. Siting of new development visible from private viewing areas may be taken into consideration during the subdivision process.</p>	<ul style="list-style-type: none"> This policy is focused on scenic rather than biological resources, including movement corridors.
<p>OS-1.6 In areas subject to specific plans, the ridgeline policies and regulations of the applicable specific plan shall govern. Each specific plan shall address viewshed issues, including ridgeline development as part of the plan, including but not limited to provisions for setbacks, landscaping, height limits, or open space buffers.</p>	<ul style="list-style-type: none"> This policy is focused on scenic rather than biological resources, including movement corridors. The policy contains no performance standards.
<p>OS-1.7 A voluntary, transfer of development rights program to direct development away from areas with unique visual or natural features, critical habitat, or prime agricultural soils shall be established.</p>	<ul style="list-style-type: none"> Since the program has not been developed or specified in any detail whatsoever, there are no enforceable standards on the basis of which the DEIR can conclude that this policy would protect biological resources, including movement corridors. A voluntary program will not create an enforceable mandate to protect any particular resource.
<p>OS-1.8 Programs to encourage clustering development in rural and agricultural areas to maximize access to infrastructure, protect prime agricultural land, and reduce impacts to designated visually sensitive and critical habitat areas shall be established.</p>	<ul style="list-style-type: none"> Since the programs have not been developed or specified in any detail whatsoever, there are no enforceable standards on the basis of which the DEIR can conclude that this policy would protect biological resources, including movement corridors or critical habitat. Programs that merely encourage clustering will not create an enforceable mandate to protect any particular resource. Please explain how the unspecified programs would operate to bar development projects that impair movement corridors, giving examples of programs that may be developed. Please explain why the example programs should not be adopted as mitigation measures for the 2007 General Plan.
<p>OPEN SPACE POLICIES RELATED TO GOAL OS 3, PREVENT SOIL EROSION TO CONSERVE SOILS AND ENHANCE WATER QUALITY. These policies are identified as one basis for concluding that impacts to special status species (OS 3.5) and habitat (OS 3.1 to 3.9) would be less than significant.</p>	<ul style="list-style-type: none"> Please see comments from MR. Wolfe and Associates regarding erosion and sedimentation policies. Policies OS 3.1 to 3.9 lack enforceable performance standards and examples of measures that would be imposed on particular development projects. Some of the policies are not enforceable because they call for voluntary measures or merely for supporting, encouraging, or cooperating with unspecified programs and activities. Policy OS 3.9 postpones any action to address cumulative sediment impacts until a study is conducted and some unspecified program is developed. Please explain how the DEIR can conclude on the basis of this deferred program that cumulative sedimentation impacts will be

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 9

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
	avoided.
Policies Related to Goal OS 4, PROTECT AND CONSERVE THE QUALITY OF COASTAL, MARINE, AND RIVER ENVIRONMENTS, AS APPLIED IN AREAS NOT IN THE COASTAL ZONE. These policies were identified as one basis for the DEIR's conclusion that impacts to special status species (OS 4.1 to 4.3), habitat (OS 4.2 and 4.3) and movement corridors and nursery sites (OS 4.3) would be less than significant through 2030.	<ul style="list-style-type: none"> As noted below, these policies do not actually require the County or development proponents to comply with any regulations that would not otherwise be applicable.
OS-4.1 Federal and State designated native marine and fresh water species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant shall be protected. Species designated in Area Plans shall also be protected.	<ul style="list-style-type: none"> No programs, specific activities, or permitting constraints are identified that would protect designated species. Please explain what programs, specific activities, or permitting constraints would be required of the County or development proponents by this policy. Please give examples of programs, specific activities, or permitting constraints.
OS-4.2 Direct and indirect discharges of harmful substances into marine waters, rivers or streams shall not exceed state or federal standards.	<ul style="list-style-type: none"> This policy simply affirms the existence of other regulatory programs over which the County itself is unlikely to have any jurisdiction. Please explain what action this policy requires the County to take. Please explain in particular how this policy would be applied with respect to activities that do not require permits, including routine and ongoing agricultural activity and development in the winery corridor.
OS-4.3 Estuaries, salt and fresh water marshes, tide pools, wetlands, sloughs, river and stream mouth areas, plus all waterways that drain and have impact on State designated Areas of Special Biological Significance (ASBS) shall be protected, maintained, and preserved in accordance with state and federal water quality regulations.	<ul style="list-style-type: none"> This policy simply affirms the existence of other regulatory programs over which the County itself is unlikely to have any jurisdiction. Please explain what action this policy requires the County to take. Please explain in particular how this policy would be applied with respect to activities that do not require permits, including routine and ongoing agricultural activity and development in the winery corridor.
Policies related to Goal OS-5, CONSERVE DESIGNATED CRITICAL HABITATS FOR LISTED PLANT AND ANIMAL SPECIES DESIGNATED AS FEDERAL OR STATE THREATENED OR ENDANGERED SPECIES AND CRITICAL HABITATS DESIGNATED IN AREA PLANS. These policies were identified as one basis for the DEIR's conclusion that impacts to special status species (OS 5.1 to 5.18), habitat (OS 5.5, 5.6, 5.11 to 5.15) and movement corridors and nursery sites (OS 5.11, 5.13, 5.17) would be less than significant through 2030.	
OS-5.1 The extent and acreages of the designated critical habitat of Federal and State listed threatened or endangered plants or wildlife species shall be inventoried to the extent feasible and mapped in GIS. Conservation of these threatened and	<ul style="list-style-type: none"> No explanation is provided as to how the mapped information will be used. Please explain. Please explain why critical habitat designation mapping has not already been undertaken in connection with the development of land use designations in the 2007 General

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 10

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
endangered plants shall be promoted.	<p>Plan. In the absence of a systematic review of this information, please explain how the land use designations can avoid authorizing development in areas that will result in impacts to special status species, loss of habitat, and impacts to movement corridors.</p> <ul style="list-style-type: none"> Please explain what specific activities, programs, or permitting constraints would be required in order to "promote" conservation of threatened and endangered plants. Please explain why the policy does not require the promotion of the conservation of threatened and endangered wildlife species (as opposed to plants).
OS-5.2 The extent and acreages of the potentially suitable habitat for special status plant and wildlife species shall be inventoried to the extent feasible and mapped in GIS. Conservation of special status species shall be promoted as provided in the Area Plans.	<ul style="list-style-type: none"> No explanation is provided as to how the mapped information will be used. Please explain. Please explain why suitable habitat designation mapping has not already been undertaken in connection with the development of land use designations in the 2007 General Plan. In the absence of a systematic review of this information, please explain how the land use designations can avoid authorizing development in areas that will result in impacts to special status species, loss of habitat, and impacts to movement corridors. Please explain what specific activities, programs, or permitting constraints would be required in order to "promote" conservation of threatened and endangered plants.
OS-5.3 Development shall be carefully planned to provide for the conservation and maintenance of designated critical habitat of plant and animal species listed by federal agencies as threatened or endangered.	<ul style="list-style-type: none"> Please explain whether and how the land use designations in the 2007 General Plan were developed in response to designated critical habitat. What specific mapping was conducted to ensure that land use designations did not conflict with critical habitat? If critical habitat designation was not considered and/or mapping was not conducted, why not? If critical habitat designations were not considered in developing land use designations, please explain in light of Policy OS 5.4 (calling for avoidance of development in critical habitat areas) how the County determined that sufficient land would be available for development in appropriate places. Please explain how this policy would be implemented in future development permitting. Please explain how this policy would affect, if at all, future development activities that do not require discretionary permits or any permits at all, including development in the winery corridor and conversion of habitat to agriculture.
OS-5.4 Development shall avoid impacts to State and federally listed plant and animal species and designated critical habitat for federally listed species. Measures may include but are not limited to: a. clustering lots for development to avoid designated critical habitat areas.	<ul style="list-style-type: none"> Please explain what measures may be taken when an entire development project is within a critical habitat area and clustering and conservation easements are not available measures. Please explain what measures this policy would require other than those required by regulations over which the

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 11

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
b. dedications of permanent conservation easements; or c. other appropriate means. Where new development cannot avoid critical habitat, consultation with United States Fish and Wildlife Services (USFWS) may be required and impacts may be mitigated by expanding the resource elsewhere on-site or within close proximity off-site. Final mitigation requirements would be determined by USFWS.	County has no jurisdiction. What, if anything, does this policy add to the existing regulatory regime?
OS-5.5 Landowners and developers shall be encouraged to preserve the integrity of existing terrain and native vegetation in visually sensitive areas such as hillsides, ridges, and watersheds. Routine and On-going Agriculture shall be exempt from this policy.	<ul style="list-style-type: none"> • Policies that encourage action do not create enforceable mandates. Please explain what activities, programs, or development limitations would be undertaken in response to this policy, giving examples.
OS-5.6 Native and native compatible species, especially drought resistant species, shall be utilized in fulfilling landscaping requirements.	<ul style="list-style-type: none"> • Please identify the source of the "landscaping requirements" to which this policy refers. Does the policy require use of native and native compatible species, especially drought resistant species, for all landscaping for residential development or commercial development projects? • Please explain how landscaping requirements would lead to protection of special status species, habitat, or movement corridors, giving examples.
OS-5.7 Proposals for harvesting commercially valuable timber or as a part of a Timberland Conversion Project (as defined by the California Department of Forestry) shall: a. include filing of a Timber Harvest Plan that provides for selective, sustained yield harvesting and reforestation, and erosion control; b. consider opportunities for concurrent and subsequent use of publicly owned timber land for public recreation; c. require approval by the California Department of Forestry; e. complete environmental review by the County and other appropriate agencies; and f. comply with the resource protection goals and policies of this General Plan	<ul style="list-style-type: none"> • Please explain what measures this policy would require other than those required by regulations over which the County has no jurisdiction. What, if anything, does this policy add to the existing regulatory regime? • Please identify the "resource protection goals and policies of this General Plan" with which timber harvesting proposals would have to comply. How does this provision add anything to those policies?
OS-5.8 Small-scale milling operations may be allowed subject to compatibility with resource protection policies and the peace of adjacent residences.	<ul style="list-style-type: none"> • Please identify the "resource protection policies" with which milling operations would have to comply and explain what constitutes "compatibility." How does this provision add anything to those policies?
OS-5.9 Tree removal that requires a permit shall be established by Area Plans.	<ul style="list-style-type: none"> • Please identify any area plans that do not already contain a tree removal permitting requirement. • Why have tree removal permitting policies not been established for all area plans as part of the 2007 General

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 12

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
	<p>Plan?</p> <ul style="list-style-type: none"> • What performance standards, if any, will tree removal policies have to meet? • How will this policy be coordinated with Mitigation Measure BIO 2.2, calling for an Oak Woodlands Mitigation Program? • In light of the absence of performance standards, on what basis does the DEIR identify this policy as a basis for concluding that impacts will be less than significant?
OS-5.10 Regulations for tree removal, including Timberland Conversion, shall be established and maintained by ordinance implementing Area Plan policies that address the following: a. Criteria when a permit is required including: 1. number of trees, 2. minimum size of tree, 3. Post Timberland conversion land-use b. How size is measured for each protected species of tree, and what constitutes a landmark tree depending on the rate of growth for that species. c. Hazardous trees d. Pest and disease abatement e. Replacement criteria. f. Ensure minimal removal	<ul style="list-style-type: none"> • What performance standards, if any, will tree removal ordinances have to meet? (Note that the "criteria" listed in this policy are not in fact standards, but merely the identification of parameters without any value ranges specified. A parameter without values does not constitute a performance standard. It would be possible to devise regulations consistent with this policy that permit removal of every tree in the area.) • How will this policy be coordinated with Mitigation Measure BIO 2.2, calling for an Oak Woodlands Mitigation Program? • In light of the absence of performance standards, on what basis does the DEIR identify this policy as a basis for concluding that impacts will be less than significant?
OS-5.11 Conservation of large, continuous expanses of native trees and vegetation shall be promoted as the most suitable habitat for maintaining abundant and diverse wildlife.	<ul style="list-style-type: none"> • Please explain what specific activities, programs, or development constraints would be required in order to "promote" conservation under this policy. • Please identify the objective standards for determining whether an expanse of native trees and vegetation is sufficiently large and continuous to require that its conservation be promoted. • Please explain whether and how this policy would be implemented to constrain or bar a particular development proposal. • How will this policy be coordinated with Mitigation Measure BIO 2.2, calling for an Oak Woodlands Mitigation Program? • In light of the lack of mandatory language or objective standards, please explain how this policy supports the DEIR's conclusion that impacts will be less than significant.
OS-5.12 The California Department of Fish and Game shall be consulted and appropriate measures shall be taken to protect Areas of Special Biological Significance (ASBS) for State and federally listed species.	<ul style="list-style-type: none"> • Please explain who will be required to initiate consultation and in what context. • Please provide examples and standards for "appropriate measures." • In light of the lack of examples or objective standards, please explain how this policy supports the DEIR's conclusion that impacts will be less than significant.
OS-5.13 Efforts to obtain and preserve natural areas of particular biologic, scientific, or educational	<ul style="list-style-type: none"> • Policies that merely encourage efforts do not create enforceable mandates.

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 13

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
interest and restrict incompatible uses from encroaching upon them shall be encouraged.	<ul style="list-style-type: none"> Please explain how "natural areas of particular biologic, scientific, or educational interest" will be identified, by whom, and in what context. Who will bear responsibility for implementing this policy? What resources will be devoted to it?
OS-5.14 Policies and procedures that encourage exclusion and control or eradication of invasive exotic plants and pests shall be established. Sale of such items within Monterey County shall be discouraged.	<ul style="list-style-type: none"> Who will establish policies and procedures? When will this occur? What steps will be taken in the interim? Please identify examples of and standards for policies and procedures that would encourage exclusion and control or eradication of invasive exotic plants and pests. Please explain how sale of such items would be discouraged.
OS-5.15 A fee waiver program for environmental restoration projects shall be established.	<ul style="list-style-type: none"> According to what objective standard will fees be waived? To what extent will fee waivers actually result in environmental restoration projects that would not otherwise have occurred? Who is responsible to develop the fee waiver program and on what deadline?
OS-5.16 Any development project that could potentially disturb a special status species or its critical habitat identified by the County requiring analysis or identified for protection under an adopted Area Plan shall be required to conduct a biological survey of the site. Based on the findings of this report, additional focused surveys for certain species may be required. This report, and any mitigation measures recommended in the report, shall be used as a basis for CEQA documentation for the project except if the County, in the exercise of its independent judgment, requires additional analysis. If sensitive biological resources are found on the site, the project biologist shall recommend measures necessary to reduce impacts to a less than significant level. All feasible measures shall be incorporated as conditions of approval in any permit issued. An ordinance establishing minimum standards for a biological report shall be enacted.	<ul style="list-style-type: none"> Except for the proposed ordinance setting minimum standards for biological reports, this policy does not appear to require anything other than what is already mandated by CEQA for review of development projects. Please explain what measures this policy would require other than those already required by CEQA. What, if anything, does this policy add to the existing regulatory regime? CEQA considers mitigation proposals that call for compliance with recommendations in a report that has yet to be undertaken and for which standards have not been specified to be improperly deferred. In view of the deferral of the only potentially substantive portion of the policy, the proposed standards for adequate biological studies, how does this policy support the DEIR's conclusion that impacts will be mitigated?
OS-5.17 The County shall prepare, adopt, and implement a program that allows projects to mitigate the loss of critical habitat. The program may include ratios, payment of fees, or some other mechanisms in consultation with responsible state and/or federal regulatory agencies. Until such time as the program has been established, projects shall mitigate the loss of critical habitat on an individual basis in consultation with responsible state and/or federal regulatory agencies. A Community Plan or Rural Center Plan that includes a mitigation program shall not be subject to this policy.	<ul style="list-style-type: none"> This policy does not appear to require any action that is not already required by the ESA or the CESA. Please explain what additional requirements this policy would impose, if any. This policy does not propose and performance standards for habitat loss mitigation. At most, it identifies parameters that might be part of such a program, but without specifying values for those parameters. Without values, parameters are not standards. In view of the lack of any performance standards, how does this policy support the DEIR's conclusion that impacts will be mitigated?

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 14

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
	<ul style="list-style-type: none"> Please identify the performance standards that must be met by mitigation program for a Community Plan or Rural Center Plan. If there are no such standards, how does this policy support the DEIR's conclusion that impacts related to critical habitat loss from Community Plan or Rural Center Plan will be mitigated?
OS-5.18 Prior to disturbing any federal or state jurisdictional areas, all applicable federal and state permitting requirements shall be met, including all jurisdictional measures for development of jurisdictional areas and associated riparian habitats.	<ul style="list-style-type: none"> This policy does not appear to require any action that is not already required by regulations over which the County has no jurisdiction. Please explain what additional requirements this policy would impose, if any.
<p>Policies related to Goal PS 11, MAINTAIN AND ENHANCE THE COUNTY'S PARKS AND TRAILS SYSTEM IN ORDER TO PROVIDE RECREATIONAL OPPORTUNITIES, PRESERVE NATURAL SCENIC RESOURCES AND SIGNIFICANT WILDLIFE HABITATS, AND GOOD STEWARDSHIP OF OPEN SPACE RESOURCES. These policies were identified as one basis for the DEIR's conclusion that impacts to special status species (PS 1.11, 11.12) and habitat (PS 11.11, 11.12) would be less than significant through 2030.</p>	
PS-11.11 Management plans for all County park and recreational areas and facilities, emphasizing protection of environmental resources and best management practices for open space on these lands, shall be prepared and adopted.	<ul style="list-style-type: none"> Please identify examples of and standards for management plan elements. Who will prepare management plans and on what timetable? What measures will be taken in the interim to ensure that Goal PS 11 will be met? In light of the lack of examples or objective standards, please explain how this policy supports the DEIR's conclusion that impacts will be less than significant.
PS-11.12 Parks for more active uses shall be distinguished from parks and open space areas rich in biological resources suitable for more passive enjoyment of those resources. Management Plans shall reflect these differences and specify appropriate management for each use.	<ul style="list-style-type: none"> Please explain what standards will be used to distinguish active and passive use parks. Please identify examples of and standards for management plan elements that would be appropriate for active parks and passive parks. In light of the lack of examples or objective standards, please explain how this policy supports the DEIR's conclusion that impacts will be less than significant.
<p>Policies related to Goal PS 2, ASSURE AN ADEQUATE AND SAFE WATER SUPPLY TO MEET THE COUNTY'S CURRENT AND LONG-TERM NEEDS. This policy was identified as one basis for the DEIR's conclusion that impacts to habitat (PS 2.8) would be less than significant through 2030.</p>	
PS-2.8 The County shall require that all projects be designed to maintain or increase the site's pre-	<ul style="list-style-type: none"> Please explain how this policy is related to the "runoff performance standards" that are to be developed under

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 15

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
development absorption of rainfall (minimize runoff), and to recharge groundwater where appropriate. Implementation would include standards that could regulate impervious surfaces, vary by project type, land use, soils and area characteristics, and provide for water impoundments (retention/detention structures), protecting and planting vegetation, use of permeable paving materials, bioswales, water gardens, and cisterns, and other measures to increase runoff retention, protect water quality, and enhance groundwater recharge.	<p>Policy S 3.5. Will the runoff performance standards to be developed under Policy S 3.5 permit runoff to be increased despite this policy?</p> <ul style="list-style-type: none"> Please identify the standards that could regulate impervious surfaces, vary by project type, land use, soils and area characteristics, and provide for water impoundments (retention/detention structures). Please explain how this policy supports the DEIR's conclusion that habitat impacts will be less than significant, particularly given the uncertainty as to the runoff performance standards.
<p>Policies related to Goal AG 5, ENSURE COMPATIBILITY BETWEEN THE COUNTY'S AGRICULTURAL USES AND ENVIRONMENTAL RESOURCES. This policy was identified as one basis for the DEIR's conclusion that impacts to habitat (AG 5.1, 5.2) would be less than significant through 2030.</p>	
AG-5.1 Programs that reduce soil erosion and increase soil productivity shall be supported.	<ul style="list-style-type: none"> The policy does not identify or mandate any particular program. Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects. Please identify performance standards or examples of programs to reduce soil erosion. In light of the absence of standards, examples, and mandatory action, please explain how this policy supports the DEIR's conclusion that habitat impacts will be less than significant.
AG-5.2 Policies and programs to protect and enhance surface water and groundwater resources shall be promoted, but shall not be inconsistent with State and federal regulations.	<ul style="list-style-type: none"> The policy does not identify or mandate any particular program. Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects. Please identify performance standards or examples of programs to protect and enhance surface water and groundwater resources. In light of the absence of standards, examples, and mandatory action, please explain how this policy supports the DEIR's conclusion that habitat impacts will be less than significant.
<p>Policies related to Goal AG 4, SUPPORT THE DEVELOPMENT OF A FULLY INTEGRATED WINE INDUSTRY. This policy was identified as one basis for the DEIR's conclusion that impacts to movement corridors (AG 4.3) would be less than significant through 2030.</p>	
AG-4.3 Develop and maintain an Agricultural and	<ul style="list-style-type: none"> Please identify the guidelines and standards to encourage

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 16

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
Winery Corridor Plan (AWCP) that establishes guidelines and standards to encourage development of the wine industry within the designated corridor.	<p>development of the wine industry within the designated corridor.</p> <ul style="list-style-type: none"> Please explain whether and how the guidelines and standards to be developed under this policy will regulate conversion of habitat to vineyards or whether the policy will be directed only at winery and visitor serving development. Please explain whether and how the DEIR determined that encouraging the wine industry to develop within the designated corridor would beneficially affect movement corridors, particularly in light of the fact that the winery corridor interrupts the east-west movement corridor across the Salinas Valley. In light of the absence of standards, examples, and mandatory action, please explain how this policy supports the DEIR's conclusion that habitat impacts will be less than significant. Please explain how this policy will actually have any significant effect of confining winery development within any particular area in view of Policy AG 4.4, which provides that "these policies do not limit the development of wineries within or outside of the designated winery corridor."
<p>Policies related to Goal S 2, REDUCE THE AMOUNT OF NEW DEVELOPMENT IN FLOODPLAINS, AND FOR ANY DEVELOPMENT THAT DOES OCCUR, MINIMIZE THE RISK FROM FLOODING AND EROSION. This policy was identified as one basis for the DEIR's conclusion that impacts to movement corridors (S 2.1 to 2.8) would be less than significant through 2030.</p>	
S-2.1 Land use planning to avoid incompatible structural development in flood prone areas shall be the primary means of minimizing risk from flood hazards.	<ul style="list-style-type: none"> Please explain how a policy designed to avoid structural development but that still permits agricultural use will act to preserve movement corridors.
S-2.2 Uses such as agriculture, passive to low intensity recreation, and open space/conservation are the most acceptable land uses in the 100-year floodplain to lessen the potential for loss of life, injury, property damage, and economic and social dislocations to the maximum extent feasible.	<ul style="list-style-type: none"> This policy does not appear to authorize any activities, programs, or development constraints. Please explain how it would be implemented. For example, would this policy <i>bar</i> structural development in the flood-plain? If not, why not? How, and in what context (e.g., development review?), will the County determine whether proposed uses lessen the potential for loss of life, injury, property damage, and economic and social dislocations to the maximum extent feasible. How will feasibility be determined, technically or economically?
S-2.3 All new development, including filling, grading, and construction, within designated 100-year floodplain areas shall conform to the guidelines	<ul style="list-style-type: none"> Please identify the referenced ordinances established by the County Board of Supervisors. If they have not been established, please explain what these ordinances will

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 17

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
of FEMA and the National Flood Insurance Program and ordinances established by the County Board of Supervisors. With the exception of the construction of structures, Routine and On-going Agricultural activities shall be exempt from this policy.	<ul style="list-style-type: none"> provide. Please identify the specific provisions of the guidelines of FEMA and the National Flood Insurance Program and ordinances established by the County Board of Supervisors from which Routine and On-going Agricultural activities shall be exempt. Please explain how the exemption of Routine and On-going Agricultural activities will affect movement corridors.
S-2.4 Monterey County shall strive to improve its National Flood Insurance Program Community Rating System classification.	<ul style="list-style-type: none"> Please explain how this policy will affect movement corridors.
S-2.5 In Community Areas, the suitability of new development in the FEMA defined 100-year floodplain shall be addressed through the Community Plan process in consultation with the Monterey County Water Resources Agency. The County shall prioritize, support, encourage, and participate to the greatest extent feasible in collaborative efforts to address flooding in or around Community Areas in order to facilitate development identified in the Community planning process.	<ul style="list-style-type: none"> Please identify standards for and examples of County activities to prioritize, support, encourage, and participate to the greatest extent feasible in collaborative efforts to address flooding in or around Community Areas in order to facilitate development identified in the Community planning process. Please explain how this policy will affect movement corridors, particularly in view of the probability that movement corridors will not include Community Areas.
S-2.6 Drainage and flood control improvements needed to mitigate flood hazard impacts associated with potential development in the 100-year floodplain shall be determined prior to approval of new development and shall be constructed concurrently with the development.	<ul style="list-style-type: none"> Will this policy apply to agriculture? If not, why not? How will this policy affect movement corridors?
S-2.7 Outside Community Areas, subdivisions that create lots where the only developable sites for new structures are within the 100-year floodplain shall be discouraged.	<ul style="list-style-type: none"> Policies that merely "discourage" activities do not create an enforceable mandate. Please explain whether and how this policy could be used to deny a development permit.
S-2.8 Alternative project designs and densities to minimize development in the floodplain shall be considered and evaluated.	<ul style="list-style-type: none"> The policy does not specify who is responsible to implement it. Please explain what constraints, if any, this policy would impose on the development review process. Please explain whether this policy would be applied to projects for which no discretionary permit is required, including wineries and conversion of habitat for agriculture. Please explain how the County or a development proponent would formulate the objectives to be satisfied by the "alternative" project designs and densities that are to be considered. If the County does not formulate these objectives, please explain how the County would avoid findings that there is no alternative to narrowly designed objectives.

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 18

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
Policies from the CACHAGUA AREA PLAN. These policies were identified as one basis for the DEIR's conclusion that impacts to special status species, habitat, and movement corridors would be less than significant through 2030.	
CACH-1.4 New development adjacent to the Ventana Wilderness shall not impact the purpose of the wilderness areas.	<ul style="list-style-type: none"> Please identify standards and examples of allowable development. In light of the absence of standards and examples for allowable development, please explain how the policy supports the DEIR's conclusion that impact will be less than significant.
CACH-3.3 Alteration of hillsides and natural landforms caused by cutting, filling, grading or vegetation removal shall be minimized through sensitive siting and design of all improvements and maximum feasible restoration. Where cut and fill is unavoidable on steep slopes, disturbed areas shall be re-vegetated.	<ul style="list-style-type: none"> Please identify objective standards for "sensitive siting and design of all improvements and maximum feasible restoration" The policy does not create an enforceable mandate because there are no standards to define "unavoidable" cut and fill (relative to what objectives?) and "maximum feasible restoration" (feasible within what constraints?) Please explain how this policy supports a finding of less than significant impacts in view of the lack of objective standards and enforceable mandates.
CACH-3.5 Mining or commercial timber, or other resource production operations that include methods to screen areas, vehicle access, impacts on roadways, noise impacts, measures to control on site and off site drainage and reclamation plans for mined or quarried areas may be considered in the Planning Area. Impacts on watersheds, local roads, flora and fauna shall be mitigated.	<ul style="list-style-type: none"> Please explain what is meant by "methods to screen areas, vehicle access, impacts on roadways, noise impacts, measures to control on site and off site drainage and reclamation plans for mined or quarried areas." The sentence is not clear. What particular impacts are referred to in stating that "impacts on watersheds, local roads, flora and fauna shall be mitigated?" How will those impacts be mitigated? Please identify objective standards and examples of possible mitigation methods. Please explain how the policy supports a finding of less than significant impacts in view of the lack of standards and examples for mitigation.
CACH-3.6 In cooperation with the United States Forest Service and private property owners, work to ensure that Santa Lucia fir are protected due to their significance to the natural history of the Planning Area.	<ul style="list-style-type: none"> No responsibility is assigned to implement this policy and no resources are identified. Please explain. No development constraints are identified. Please explain if this policy would constrain development at all. In view of the lack of any enforceable mandate, any assignment of responsibility, and any constraints on development, please explain how this policy supports a finding of less than significant impacts.
CACH-3.7 New development shall be sited to protect riparian vegetation and threatened fish species, minimize erosion, and preserve the visual aspects of the Carmel and Arroyo Seco Rivers. Private property owners are encouraged to preserve the Carmel River in its natural state, to prevent erosion and protect fishery habitat. Fishery habitats located above the Los Padres and San Clemente	<ul style="list-style-type: none"> The term "minimize erosion" is not defined. Please specify the standards for acceptable levels of erosion. Policies that "support," "promote," or "encourage" activities and programs do not create enforceable constraints on development projects. No responsibility is assigned for ensuring that fishery habitats are maintained in a productive state accessible to fish populations, especially steelhead.

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 19

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
Dams shall be maintained in a productive state accessible to fish populations, especially steelhead.	<ul style="list-style-type: none"> In view of the lack of any standards for erosion, any assignment of responsibility, and any constraints on development, please explain how this policy supports a finding of less than significant impacts.
Policies from the CARMEL VALLEY MASTER PLAN. These policies were identified as one basis for the DEIR's conclusion that impacts to special status species, habitat, and movement corridors would be less than significant through 2030.	
CV-3.4 Alteration of hillsides and natural landforms caused by cutting, filling, grading or vegetation removal shall be minimized through sensitive siting and design of all improvements and maximum feasible restoration including botanically appropriate landscaping. Where cut and fill is unavoidable on steep slopes, disturbed areas shall be revegetated.	<ul style="list-style-type: none"> Please identify objective standards for "sensitive siting and design of all improvements and maximum feasible restoration" The policy does not create an enforceable mandate because there are no standards to define "unavoidable" cut and fill (relative to what objectives?) and "maximum feasible restoration" (feasible within what constraints?) Please explain how this policy supports a finding of less than significant impacts in view of the lack of objective standards and enforceable mandates.
CV-3.7 Areas of biological significance shall be identified and preserved as open space. These include, but are not limited to: a. The redwood community of Robinson Canyon, b. The riparian community and redwood community of Gatzes Creek; c. All wetlands, including marshes, seeps and springs (restricted occurrence, sensitivity, outstanding wildlife value), d. Native bunchgrass stands and natural meadows (restricted occurrence and sensitivity). e. Cliffs, rock outcrops and unusual geologic substrates (restricted occurrence). f. Ridgelines and wildlife migration routes (wildlife value). When a parcel cannot be developed because of this policy, a low-density, clustered development (but no subdivision) may be approved on those portions of the land not biologically significant or on a portion of the land adjoining existing development so that the development will not diminish the visual quality of such parcels or upset the natural functioning of the ecosystem in which the parcel is located.	<ul style="list-style-type: none"> Please identify objective criteria for determining areas of biological significance. Please identify the boundaries of the areas identified in subsections a through f of the policy. If boundaries cannot be identified, please explain the criteria by which the areas will be designated. Please explain what is meant by the phrases in parentheses in subsections a through f, including restricted occurrence, sensitivity, and outstanding wildlife value. Please explain when the designation will occur and what agency will make the designation. Please explain what rights will be afforded to landowners in the designation process. Please explain what interim measures will be put in place to implement this policy pending designation of areas of biological significance. Please identify the basis on which it will be determined if a development will upset the natural functioning of the ecosystem. In view of the lack of standards and procedures to implement this policy, please explain how it supports a finding of less than significant impacts.
CV-3.8 Development shall be sited to protect riparian vegetation, minimize erosion, and preserve the visual aspects of the Carmel River. In places where the riparian vegetation no longer exists, it should be planted to a width of 150 feet from the river bank, or the face of adjacent bluffs, whichever is less. Density may be transferred from this area to other areas within a lot.	<ul style="list-style-type: none"> Please identify the objective standards for siting development to protect riparian vegetation, minimize erosion, and preserve the visual aspects of the Carmel River. Please explain under what circumstances this policy would be implemented to bar any development of a parcel.

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 20

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
	<ul style="list-style-type: none"> Please explain why a similar policy is not proposed for all other riparian corridors in the County.
CV-3.9 Willow cover along the banks and bed of the Carmel River shall be maintained in a natural state for erosion control. Constructing levees, altering the course of the river, or dredging the river shall only be allowed by permit from the Monterey Peninsula Water Management District or Monterey County.	<ul style="list-style-type: none"> Please explain under what circumstances this policy would be implemented to bar any development of a parcel. What standards will be used by the Monterey Peninsula Water Management District or Monterey County in determining whether to issue a permit? Please explain why a similar policy is not proposed for all other riparian corridors in the County.
CV-3.10 Predominant landscaping and erosion control material shall consist of plants native to the valley that are similar in habitat, form, and water requirements. The following guidelines shall apply for landscape and erosion control plans: a. Existing native vegetation should be maintained as much as possible throughout the valley. b. Valley oaks should be incorporated on floodplain terraces. c. Weedy species such as pampas grass and genista shall not be planted in the Valley. d. Eradication plans for weedy species shall be incorporated. e. The chaparral community shall be maintained in its natural state to the maximum extent feasible in order to preserve soil stability and wildlife habitat and also be consistent with fire safety standards.	<ul style="list-style-type: none"> Please explain why a similar policy is not proposed for all other areas in the County. Please explain what portion of landscaping and erosion control material will constitute the "predominant" portion. Please explain the basis for this determination. For example, why does the policy not require that all of landscaping and erosion control material comply? Please explain whether this policy will apply to residential development. If not why not. Please explain whether this policy will apply to developments for which no discretionary permit is required. If so, how will it be implemented. If not, why not? Please explain how "as much as possible" and "the maximum extent feasible" will be determined and whether feasibility and possibility will be determined technically or economically.
CV-3.11 Removal of healthy, native oak, madrone and redwood trees in the Carmel Valley Master Plan Area shall be discouraged. A permit shall be required for the removal of any of these trees with a trunk diameter in excess of 6-inches (6") diameter breast height (d.b.h). Where feasible, trees removed will be replaced at a 1:1 ratio using nursery-grown trees of the same species that are a minimum of 1-gallon in size. Removal without a permit shall result in a minimum fine, equivalent to the retail value of the wood removed plus replacement of 1-gallon, nursery-grown trees at a 2:1 ratio. Exemptions to the above permit requirement shall include: a. tree removal by public utilities, as specified in the California Public Utility Commission's <i>General Order 95</i> , and by governmental agencies. b. emergencies caused by the hazardous or dangerous condition of a tree and requiring immediate action for the safety of life or property, provided the County is notified of the action within ten (10) working days.	<ul style="list-style-type: none"> Please explain why a similar policy is not proposed for all other areas in the County. Please explain how the policy will be implemented to "discourage" tree removal. What standards will be used to determine whether to issue a permit to remove trees? What conditions will be imposed on such permits? Please explain how it will be determined whether replacement is feasible and whether feasibility will be determined technically or economically. How will this policy be coordinated with Mitigation Measure BIO 2.2, calling for an Oak Woodlands Mitigation Program?
CV-3.12 Open space areas should include a diversity of habitats with special protection given to areas where one habitat grades into another (these ecotones are ecologically important zones) and	<ul style="list-style-type: none"> Please explain how, when, and by whom this policy will be implemented. Will this policy require re-designation of the land use

75

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g	
<p><i>Comments on the DEIR for the 2007 Monterey General Plan</i> January 29, 2009 Page 21</p>	
Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
<p>areas used by wildlife for access routes to water or feeding grounds.</p>	<p>classifications proposed in the 2007 General Plan? If not, how will this policy operate to constrain development and preserve open space?</p> <ul style="list-style-type: none"> • What standards will be used to determine which areas should be preserved in open space? • In view of the lack of standards and plans for implementation, please explain how this policy supports a finding that impacts would be less than significant.
<p>CV-4.1 In order to reduce potential erosion or rapid runoff: a. The amount of land cleared at any one time shall be limited to the area that can be developed during one construction season. b. Motorized vehicles shall be prohibited on the banks or in the bed of the Carmel River, except by permit from the Water Management District or Monterey County. c. Native vegetative cover must be maintained on areas that have the following combination of soils and slope: 1. Santa Lucia shaly clay loam, 30-50% slope (SF) 2. Santa Lucia-Reliz Association, 30-75% slope (Sg) 3. Cienega fine gravelly sandy loam, 30-70% slope (CcG) 4. San Andreas fine sandy loam, 30-75% slope (SoG) 5. Sheridan coarse sandy loam, 30-75% slope (SoG) 6. Junipero-Sur complex, 50-85% slope (Jc)</p>	<ul style="list-style-type: none"> • Please explain why sections "a" and "b" of this policy are not required County-wide. • Please explain why native vegetative cover should not be maintained on slopes over 25% or on slopes below 25%. • Please explain why requirements for maintenance of native vegetative cover are not proposed for all other areas of the County.
<p>CV-5.3 Development shall incorporate designs with water reclamation, conservation, and new source production in order to: a. maintain the ecological and economic environment; b. maintain the rural character; and c. create additional water for the area where possible including, but not limited to, on-site stormwater retention and infiltration basins.</p>	<ul style="list-style-type: none"> • Please identify standards for designs that will meet the objectives in subsections a through c. • Please identify standards for determining whether the objectives in subsections a through c are met. • Please explain how, in view of the lack of identified standards, the policy supports a finding that impacts are less than significant.
<p>CV-6.2 Gardens, orchards, row crops, grazing animals, farm equipment, and farm buildings are part of the heritage and the character of Carmel Valley. This rural agricultural nature should be encouraged, except on slopes of 25-percent (25%) or greater or where it would require the conversion or extensive removal of existing native vegetation.</p>	<ul style="list-style-type: none"> • Please explain why slope development for agriculture will not cause erosion and sedimentation impacts on slopes less than 25%. • Please explain why the 25% slope limitation is encouraged in Carmel Valley but not County-wide. • The policy does not create an enforceable mandate because it merely states that conversion and extensive vegetation removal on slopes over 25% should not be encouraged. Nothing in the policy actually bars such slope development.
<p>Policies from the CENTRAL SALINAS VALLEY AREA PLAN: These policies were identified as</p>	
TRA ENVIRONMENTAL SCIENCES, INC.	

O-11g	
<p><i>Comments on the DEIR for the 2007 Monterey General Plan</i> January 29, 2009 Page 22</p>	
Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
<p>one basis for the DEIR's conclusion that impacts to special status species, habitat, and movement corridors would be less than significant through 2030.</p>	
<p>CSV-5.1 Development shall be designed to maintain groundwater recharge capabilities on the property. To protect and maintain areas for groundwater recharge, preservation of riparian habitats, and flood flow capacity, the main channels of the Arroyo Seco River and the Salinas River shall not be encroached on by development.</p>	<ul style="list-style-type: none"> • Please identify the geographic extent protected areas in the "main channels." • Recharge areas, riparian habitat, and flood flows occur outside of the main channels of the rivers. The riparian habitat and flood flow areas are primarily outside the main channels. Please explain how barring development only from the main channels will be sufficient to meet the stated objectives of protecting and maintaining areas for groundwater recharge, preservation of riparian habitats, and flood flow capacity. • Please explain why a similar policy is not proposed County-wide.
<p>CSV-5.2 Recreation and visitor-serving commercial uses shall only be allowed if it can be proven that: a. areas identified by the Water Resources Agency as prime-groundwater recharge areas can be preserved and protected from sources of pollution as determined by the Director of Environmental Health and the Water Resources Agency; b. proposed development can be phased to ensure that existing groundwater supplies are not committed beyond their safe, long-term yields where such yields can be determined. c. floodways associated with the main channels of either the Arroyo Seco River or the Salinas River will not be encroached on by development because of the necessity to protect and maintain these areas for groundwater recharge, preservation of riparian habitats, and flood flow capacity as determined by the Water Resources Agency; d. the proposed development meets both water quality and quantity standards expressed in Title 22 of the California Code of Regulations and Title 15.04 of the Monterey County Code as determined by the Director of Environmental Health; and e. the proposed development meets the minimum standards of the Regional Water Quality Control Basin Plan when septic systems are proposed and also will not adversely affect groundwater quality, as determined by the Director of Environmental Health; and f. the proposed development will not generate levels of runoff which will either cause erosion or adversely affect surface water resources as determined by the Water Resources Agency.</p>	<ul style="list-style-type: none"> • Please explain why this policy is limited to recreation and visitor-serving commercial uses. Why is it not applied to all uses, including agriculture? • Please identify the prime-groundwater recharge areas and the standards by which it will be determined that these areas can be preserved and protected. • Please explain how and when safe-yields will be determined. Please explain under what circumstances it will be concluded that safe, long-term yields cannot be determined. • Please identify the geographic extent of the floodways to be protected from development. If the geographic extent is not identified, please explain whether floodways will be determined with reference to 10-year floods, 100-year floods, or on some other basis. • Please identify the standards to be used to determine runoff levels that will not cause erosion or adversely effect surface water resources. • Please explain why a similar policy is not proposed County-wide.
<p>Policies from the FORT ORD MASTER PLAN: These policies were identified as one basis for the</p>	
TRA ENVIRONMENTAL SCIENCES, INC.	

O-11g

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 23

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
DEIR's conclusion that impacts to special status species, habitat, and movement corridors would be less than significant through 2030.	
Recreation Policy C-1: <i>Monterey County shall establish an oak tree protection program to ensure conservation of existing coastal live oak woodlands in large corridors within a comprehensive open space system. Locate local and regional trails within this system.</i>	<ul style="list-style-type: none"> Please identify performance standards for the program, including standards for identification of trees to be protected and for identification of "large corridors within a comprehensive open space system." How will this policy be coordinated with Mitigation Measure BIO 2.2, calling for an Oak Woodlands Mitigation Program?
Recreation Policy C-2: <i>All proposed recreational use should be reviewed for compatibility with an adopted Habitat Conservation Plan to insure long-term protection of sensitive resources. Recreational use shall be prohibited if the FORA Board finds that such use could compromise the ability to maintain and preserve an environmentally sensitive resource.</i>	<ul style="list-style-type: none"> Please identify standards for determining "sensitive resources." Please identify the performance standards on the basis of which the FORA Board will determine if recreational uses compromise the ability to maintain and preserve an environmentally sensitive resource.
Biological Resource Policies A-1 through A-9 together with implementing programs establishes a Habitat Management Plan for Fort Ord.	<ul style="list-style-type: none"> Please explain why habitat management plans are not established or proposed with the same level of specificity and programmatic detail to protect other areas and resources within the County. See comments on the proposed Mitigation Measure BIO 1.5.
Biological Resources Policies B-1 through B3 address preservation of sensitive species and habitats not included in the HCP; preservation of identified oak woodlands; and preservation of vernal ponds, riparian corridors, and wetland areas.	<ul style="list-style-type: none"> Please explain why similar policies and programs are not proposed to protect sensitive species and habitats throughout the County. For example, please explain why the General Plan does not identify specific oak woodland corridors for protection and require specific mitigation ratios for wetlands and riparian forests in areas other than Fort Ord.
Biological Resources Policy C-1 through C-3	
Biological Resources Policy C-1: <i>The County of Monterey shall encourage grading for projects to be designed to complement surrounding topography and to minimize habitat disturbance.</i>	<ul style="list-style-type: none"> Programs that merely encourage activities do not create enforceable mandates. Please explain why the policy does not require certain grading techniques.
Program C-1.1: <i>The County shall encourage the use of landform grading techniques for 1) projects involving major changes to the existing topography, 2) large projects with several alternative lot and roadway design possibilities, 3) projects with known geological problems areas, or 4) projects with potential drainage problems requiring diverters, dissipaters, debris basins, etc.</i>	
Biological Resources Policy C-2: <i>The County shall encourage the preservation and enhancement of native oak woodland elements in the natural and built environments. Refer to Fort Ord Reuse Plan Figure 4.4-1 for general location of oak woodlands of the former Fort Ord.</i>	<ul style="list-style-type: none"> Programs that merely encourage activities do not create enforceable mandates. Please explain why the policy does not require preservation and enhancement of native oak woodlands through mandatory clustering.
Program C-2.1: <i>The County shall encourage clustering of development wherever possible so that contiguous stands of oak trees can be maintained in</i>	<ul style="list-style-type: none"> Please explain whether the requirement to use oaks and other native plant species will apply to all development projects and whether it will extend to all of a project's landscaping. If not, please explain to which projects this will apply and to what extent.

75

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 24

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
<i>the non-developed natural land areas.</i>	
Program C-2.2: <i>The County shall apply certain restriction for the preservation of oak and other protected trees in accordance with Chapter 16.60 of Title 16 of the Monterey County Code (ordinance 3420).</i>	<ul style="list-style-type: none"> How will this policy be coordinated with Mitigation Measure BIO 2.2, calling for an Oak Woodlands Mitigation Program?
Program C-2.3: <i>The County shall require the use of oaks and other native plant species for project landscaping. To that end, the County shall recommend collection and propagation of acorns and other plant materials from the former Fort Ord oak woodlands to be used for restoration or as landscape material.</i>	
Program C-2.4: <i>The County shall provide the following standards for plantings that may occur under oak trees: 1) planting may occur within the drip line of mature trees, but only at a distance of five feet from the trunk and 2) plantings under and around oaks should be selected from the list of approved species compiled by the California Oak Foundation (see Compatible Plants Under and Around Oaks).</i>	
Program C-2.5: <i>The County shall require that paving within the drip line of preserved oak trees be avoided wherever possible. To minimize paving impacts, the surfaces around tree trunks should be mulched, paving materials should be used that are permeable to water, aeration vents should be installed in impervious pavement, and root zone excavation should be avoided.</i>	
Biological Resources Policy C-3: <i>Lighting of outdoor areas shall be minimized and carefully controlled to maintain habitat quality for wildlife in undeveloped natural lands. Street lighting shall be as unobtrusive as practicable and shall be consistent in intensity throughout development areas adjacent to undeveloped natural lands.</i>	<ul style="list-style-type: none"> Please explain why this policy is not applied throughout the County.
Program C-3.1: <i>The County shall review lighting and landscape plans for all development applications to ensure consistency with Policy C-3.</i>	
Biological Resources Policy D-1: <i>The County shall require project applicants to implement a contractor education program that instructs construction workers on the sensitivity of biological resources in the vicinity and provides specifics for certain species that may be recovered and relocated from particular development areas.</i>	<ul style="list-style-type: none"> Please explain why these policies are not applied throughout the County.
Program D-1.1: <i>The County shall participate in the preparation of a contractor education program with other Fort Ord land use jurisdictions. The education program should describe the sensitivity of</i>	

75

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 25

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts

biological resources, provide guidelines for protection of special status biological resources during ground disturbing activities at the former Fort Ord, and outline penalties and enforcement actions for take of listed species under Section 9 of the Endangered Species Act.

Program D-1.2: The County shall provide project applicants with specific information on the protocol for recovery and relocation of particular species that may be encountered during construction activities.

Biological Resources Policy D-2: The County shall encourage and participate in the preparation of educational materials through various media sources that describe the biological resources on the former Fort Ord, discuss the importance of the HMP, and emphasize the need to maintain and manage the biological resources to maintain the uniqueness and biodiversity of the former Fort Ord.

Program D-2.1: The County shall develop interpretive signs for placement in habitat management areas. These signs describe resources present, how they are important to the former Fort Ord, and ways in which these resources are or can be protected.

Program D-2.2: The County shall coordinate production of educational materials through the CRMP process.

Program D-2.3: Where development will be adjacent to habitat management areas, corridors, oak woodlands, or other reserve open space, the County shall require project applicants to prepare a Homeowner's Brochure which describes the importance of the adjacent land areas and provides recommendations for landscaping, and wildfire protection, as well as measures for protecting wildlife and vegetation in the adjacent habitat areas. (i.e., access controls, pet controls, use of natives in the landscape, etc.).

Biological Resources Policy E-1: The County shall develop a plan describing how it intends to address the interim management of natural land areas for which the County is designated as the responsible party.

Program E-1.1: The County shall submit to the USFWS and CDFG, through the Coordinated Resource Management Planning (CRMP) program, a plan for implementation of short-term habitat management for all natural lands, including consideration of funding sources, legal mechanisms and a timetable to provide for prompt implementation of the following actions to prevent

- Please explain why these policies are not applied throughout the County.

75

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 26

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts

degradation of habitat:

- Control off-road vehicle use in all undeveloped natural land areas.

- Prevent any unauthorized disturbance in all undeveloped natural land areas, but especially in designated conservation areas and habitat corridors.

- Prevent the spread of non-native, invasive species that may displace native habitat.

Program E-1.2: For natural land areas under County responsibility with partial or no HMP resource conservation or management requirement, but which remain undeveloped, the County shall annually provide the BLM evidence of successful implementation of interim habitat protection measures as specified in Program E-1.1.

Biological Resources Policy E-2: The County shall monitor activities that affect all undeveloped natural lands, including, but not limited to conservation areas and habitat corridors as specified and assigned in the HMP.

Program E-2.1: The County shall conduct Land Use Status Monitoring in accordance with the methods prescribed in the Implementing Agreement for all former Fort Ord land under County responsibility that contains any natural lands identified by the baseline studies. This monitoring will provide data on the amount (in acres) and location of natural land (by habitat type) remaining undeveloped and the amount (in acres) and location of natural land (by habitat type) disturbed by development since the date of land transfer for as long as the Implementing Agreement is in effect.

Policies from the GREATER MONTEREY PENINSULA AREA PLAN. These policies were identified as one basis for the DEIR's conclusion that impacts to special status species, habitat, and movement corridors would be less than significant through 2030.

GMP-3.4 Plant materials shall be used to integrate manmade and natural environments, to screen or soften the visual impact of new development, and to provide diversity in developed areas.

GMP-3.5 Development in the Greater Monterey Peninsula area shall be designed to prevent, to the maximum extent feasible, the destruction of native oak, pine, and redwood forest habitat and wetlands in the Greater Monterey Peninsula Area Plan area.

- Please explain how this policy supports the conclusion that impacts to species, habitat, and movement corridors will be less than significant.
- Please explain why this policy does not require the use of native plants.

- Please explain how the maximum extent feasible will be determined in practice. How would this policy be implemented to bar or substantially alter a proposed development project?
- Will feasibility be determined with reference to economic or technical constraints or both?

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 27

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
GMP-3.6 A 100-foot setback from all wetlands, as identified by a County-approved biologist, shall be provided and maintained in open space use. No new development shall be allowed in this setback area. No landscape alterations will be allowed in this setback area unless accomplished in conjunction with a restoration and enhancement plan prepared by a County-approved biologist and approved by the California Department of Fish and Game.	<ul style="list-style-type: none"> Please explain how this policy would be coordinated with Mitigation Measure BIO 2.1, Stream Setback Ordinance. Which requirements would govern? Please explain how the 100-foot requirement was determined.
GMP-3.7 The County shall encourage other local agencies to take appropriate measures for the protection of wetlands under their jurisdiction.	<ul style="list-style-type: none"> Policies that merely encourage do not create enforceable mandates. Please identify the local agencies and the appropriate measures that would be encouraged and give examples of specific actions the County would take to encourage these agencies to act.
GMP-3.8 Open space areas should include a diversity of habitats with special protection given to ecologically important zones such as areas where one habitat grades into another and areas used by wildlife for access routes to water or feeding grounds.	<ul style="list-style-type: none"> Please explain how, when, and by whom this policy will be implemented. Will this policy require re-designation of the land use classifications proposed in the 2007 General Plan? If not, how will this policy operate to constrain development and preserve open space? What standards will be used to determine which areas should be preserved in open space? In view of the lack of standards and plans for implementation, please explain how this policy supports a finding that impacts would be less than significant.
GMP-3.9 Critical habitat areas should be preserved as open space. When an entire parcel cannot be developed because of this policy a low intensity, clustered development may be approved. However, the development should be located on those portions of the land least biologically significant so that the development will not upset the natural function of the surrounding ecosystem.	<ul style="list-style-type: none"> Please identify the basis on which it will be determined if a development will upset the natural functioning of the ecosystem. Please explain what measures may be taken when an entire development project is within a critical habitat area and it is determined that even a cluster development will upset the natural functioning of the ecosystem. The policy states that a low intensity, clustered development <i>may</i> be approved when an entire parcel cannot be developed because of this policy. <i>Must</i> a development project be approved under those circumstances? Even if any development will upset the natural functioning of the ecosystem? Will this policy be implemented to bar a proposed development project or to limit its scope?
GMP-3.10 Work with appropriate state and federal agencies to ensure that oil transport activities near the Monterey County coast include adequate procedures to protect marine bird and mammal (particularly sea otter) populations and to clean up oil spills.	<ul style="list-style-type: none"> This policy is unrelated to the inland areas for which the 2007 General Plan has been prepared.

75

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 28

O-11g

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
GMP-4.1 Redwood, pine, and oak forest and chaparral habitat on land exceeding 25 percent slope should remain undisturbed due to potential erosion impacts and loss of visual amenities.	<ul style="list-style-type: none"> Please explain how this policy would be coordinated with Policy OS 3.5. Does this policy ban all development on land exceeding 25% slope containing redwood, pine, and oak forest and chaparral habitat? Please explain why this policy is not required County-wide.
<p>Policies from the GREATER SALINAS AREA PLAN. These policies were identified as one basis for the DEIR's conclusion that impacts to special status species, habitat, and movement corridors would be less than significant through 2030.</p> <p>GS-11 "Special Treatment Area: Butterfly Village." Approximately 671 acres located north of San Juan Grade Road and east of Harrison Road shall be designated as a "Special Treatment Area" to permit a planned development in substantial conformance with the Butterfly Village Land Use Plan (Figure 1.11.1) including:</p> <ol style="list-style-type: none"> Approximately 345 acres of neighborhood and community parks and open space uses such as hiking trails, recreation, public parking, storm water detention ponds and lakes for drainage control and water recharge as well as areas preserved for sensitive habitat. 71 hospitality units. A 20,000 square foot Community Health and Wellness Center that offers a variety of health, fitness and nutrition uses. Public facilities, including a fire station, sheriff substation, maintenance yard, independent wastewater treatment facility, 200 square foot library, and a 10-acre site for a potential elementary school site with athletic fields. Neighborhood Commercial (approximately 90,000 sq. ft.) including mixed use development, to help provide jobs within the project. Development on slopes exceeding 25% and ridgeline development. Up to 1,147 residential units for various income levels ranging from 0.9 units/acre to 20 units/acre. A minimum of 32% inclusionary/workforce levels including but not limited to senior living facilities. Agriculture buffers ranging from 30 feet to 100 feet. Vehicular access from the west via Harrison Road and from the east via San Juan Grade Road. A dedicated easement to accommodate the realignment of the Highway 101 future Prunedale Bypass. <p>A Community Plan is not required for</p>	

75

TRA ENVIRONMENTAL SCIENCES, INC.

<p><i>Comments on the DEIR for the 2007 Monterey General Plan</i> January 29, 2009 Page 29</p> <p style="text-align: right;">O-11g</p>	
<p>Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts</p>	
<p>development of the Butterfly Village STA. The Butterfly Village STA shall be entitled to the exemptions in the General Plan provided for Community Areas and for areas for which a community Plan or Specific Plan has been adopted. However, the area adjoining the Butterfly Village STA shall not be entitled to rely upon <i>LU-2, 12(d)</i> and <i>GS-9.2</i>. Except as provided for in this General Plan, development shall be guided by the principles and standards contained in Chapters 3-8 of the document entitled "Rancho San Juan Specific Plan" dated November 7, 2005, which are otherwise consistent with the Butterfly Village STA and the Butterfly Village Land Use Plan (<i>Figure LU7</i>) (APNs: 113-271-014-000, 113-212-043-000, 113-212-044-000, 113-212-004-000, 113-212-003-000, 113-212-055-000, 113-212-056-000, 113-212-057-000 and 113-212-058-000)</p>	
<p>GS-1.3 Development of commercial land uses designated near Highway 68 and the Salinas River shall be allowed only if such uses:</p> <p>a. Are planned general commercial rather than neighborhood serving;</p> <p>b. Will protect and, where feasible, enhance the riparian habitat along the Salinas River;</p> <p>c. Will not further deteriorate water quality in the Salinas River;</p> <p>d. Are adequately screened from viewpoints along Highway 68, Spreckels Lane, and Spreckels Boulevard by minimizing tree removal and by landscaping frontage areas.</p> <p>Because of the proximity to agricultural lands, commercial uses which support farm activities shall be encouraged.</p>	<ul style="list-style-type: none"> Please explain how it will be determined whether it is feasible for a project to enhance the riparian habitat along the Salinas River. Please explain what measures would be taken to enhance this habitat. Please explain how it will be determined whether proposed development will further deteriorate water quality in the Salinas River. Please explain why these conditions apply only to development of commercial land uses designated near Highway 68 and the Salinas River and not to other types of development, including agricultural uses.
<p>GS-1.8 The land near the town of Spreckels designated as industrial may also be developed partially or wholly as agriculturally related commercial uses provided said agriculturally-related development complies with the following conditions:</p> <p>a. A comprehensive development plan as a planned general commercial project shall be prepared.</p> <p>b. Development shall be designed to protect and, where feasible, enhance the riparian corridor along the Salinas River.</p> <p>c. Proposed development would not deteriorate water quality in the Salinas River or area ground water.</p>	<ul style="list-style-type: none"> Please explain how it will be determined whether it is feasible for a project to enhance the riparian habitat along the Salinas River. Please explain what measures would be taken to enhance this habitat. Please explain how it will be determined whether proposed development will further deteriorate water quality in the Salinas River. Please explain why these conditions apply only to development as agriculturally related commercial uses and not to other forms of development.
<p>TRA ENVIRONMENTAL SCIENCES, INC.</p>	

<p><i>Comments on the DEIR for the 2007 Monterey General Plan</i> January 29, 2009 Page 30</p> <p style="text-align: right;">O-11g</p>	
<p>Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts</p>	
<p>d. Walnut trees along Spreckels Boulevard shall be preserved.</p> <p>e. Development will be compatible with the agricultural activities on the adjoining parcel.</p>	
<p>GS-3.1 All vegetation on land exceeding 25 percent slope, particularly chaparral and broad leaf evergreen, should remain undisturbed to minimize erosion and retain important visual amenities.</p>	<ul style="list-style-type: none"> Please explain how this policy will be coordinated with Policy OS 3.5. Will any development be allowed on slopes over 25% in the Greater Salinas Area? Please explain why this policy is not applied County-wide.
<p>GS-3.2 Native plant materials should be used to integrate the man-made environment with the natural environment and to screen or soften the visual impact of new development.</p>	<ul style="list-style-type: none"> This policy appears to be focused on visual impacts rather than biological impacts. Please explain how it supports a finding that impacts to biological resources will be less than significant. Does this policy apply to residential landscaping? If not, why not? What portion of landscaping must consist of native plants? How will this policy be implemented? In particular, how will it be implemented for projects that do not require discretionary review?
<p>GS-5.1 Portions of Gabilan Creek shall be evaluated for a linear park as defined by the County's Parkland Classification System at such time when the County can support another regional park. Until such time, Gabilan Creek shall be:</p> <p>a. Maintained in a natural riparian state;</p> <p>b. Kept in a free-flow state devoid of dams;</p> <p>c. Allowed its natural flood capacity through required setbacks conforming to the 100 year flood plain; and</p> <p>d. Kept free from urban encroachment by residential development through required dedication of land in the floodplain corridor.</p>	<ul style="list-style-type: none"> Please explain why this policy is not applied to other streams in the County.
<p>Policies from the NORTH COUNTY AREA PLAN. These policies were identified as one basis for the DEIR's conclusion that impacts to special status species would be less than significant through 2030.</p>	
<p>NC-3.3 Conservation of North County's native vegetation shall be given high priority to:</p> <p>a. Retain the viability of threatened or limited vegetative communities and animal habitats,</p> <p>b. Promote the area's natural scenic qualities, and</p> <p>c. Preserve rare, endangered and endemic plants for scientific study.</p> <p>Property owners shall be encouraged to cooperate with the County in establishing conservation easements over areas of native vegetation.</p>	<ul style="list-style-type: none"> Policies that merely encourage activities do not create an enforceable mandate. Please explain how areas of native vegetation for preservation will be identified and what County agency will be charged with contacting property owners regarding easements.
<p>TRA ENVIRONMENTAL SCIENCES, INC.</p>	

O-11g

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 31

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
<p>NC-3.4 Removal of healthy, native oak and madrone trees in the North Monterey County Area shall be discouraged. A permit shall be required for the removal of any of these trees with a trunk diameter in excess of six inches diameter breast height (d.b.h). Where feasible, trees removed will be replaced at a 1:1 ratio using nursery-grown trees of the same species that are a minimum of one gallon in size. Removal without a permit shall result in a minimum fine, equivalent to the retail value of the wood removed plus replacement of one gallon, nursery-grown trees at a 2:1 ratio. Exemptions to the above permit requirement shall include:</p> <p>a. tree removal by public utilities, as specified in the California Public Utility Commission's General Order 95, and by governmental agencies.</p> <p>b. emergencies caused by the hazardous or dangerous condition of a tree and requiring immediate action for the safety of life or property, provided the County is notified of the action within ten working days.</p>	<ul style="list-style-type: none"> Please explain why a similar policy is not proposed for all other areas in the County. Please explain how the policy will be implemented to "discourage" tree removal. What standards will be used to determine whether to issue a permit to remove trees? What conditions will be imposed on such permits? Please explain how it will be determined whether replacement is feasible and whether feasibility will be determined technically or economically. How will this policy be coordinated with Mitigation Measure BIO 2.2, calling for an Oak Woodlands Mitigation Program?
<p>NC-3.5 Critical habitat areas should be preserved as open space. When an entire parcel cannot be developed because of this policy a low intensity, clustered development may be approved. However, the development should be located on those portions of the land least biologically significant so that the development will not upset the natural function of the surrounding ecosystem.</p>	<ul style="list-style-type: none"> Please identify the basis on which it will be determined if a development will upset the natural functioning of the ecosystem. Please explain what measures may be taken when an entire development project is within a critical habitat area and it is determined that even a cluster development will upset the natural functioning of the ecosystem. The policy states that a low intensity, clustered development may be approved when an entire parcel cannot be developed because of this policy. Must a development project be approved under those circumstances? Even if any development will upset the natural functioning of the ecosystem? Will this policy be implemented to bar a proposed development project or to limit its scope?
<p>Policies from the SOUTH COUNTY AREA PLAN. These policies were identified as one basis for the DEIR's conclusion that impacts to special status species, habitat, and movement corridors would be less than significant through 2030.</p>	
<p>SC-1.2 Clustered development shall be encouraged in all areas where development is permitted in order to make the most efficient use of land and to preserve agricultural land and open space.</p>	<ul style="list-style-type: none"> Policies that merely encourage actions do not create an enforceable mandate. Please explain how in practice clustered development will be encouraged. What specific actions will be taken by what County agency to encourage this?
<p>SC-5.2 Cooperative soil conservation, water quality protection, and resource restoration programs within watershed basins shared with neighboring counties</p>	<ul style="list-style-type: none"> Please explain what agency will be responsible for pursuing these programs Please identify resources that would make pursuing these programs feasible.

75

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 32

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts	
<p>shall be pursued.</p>	<ul style="list-style-type: none"> programs feasible. Please explain what cooperative soil conservation, water quality protection, and resource restoration programs would entail and give examples of such programs.
<p>SC-5.3 New development may not encroach on the main channels and associated floodways of the Nacimiento, San Antonio, and Salinas Rivers in order to conserve groundwater recharge, preserve riparian habitats, and protect flood flow capacity.</p>	<ul style="list-style-type: none"> Please identify the geographic extent of the protected areas in the "main channels and associated floodways." Will floodways be determined with reference to 10-year floods, 100-year floods, or on some other basis. Please explain why a similar policy is not proposed County-wide.
<p>Policies from the TOFO AREA PLAN. These policies were identified as one basis for the DEIR's conclusion that impacts to special status species and habitat would be less than significant through 2030.</p>	
<p>T-3.7 The preservation of oak trees within Toro Area Plan shall be promoted by discouraging removal of healthy trees with diameters in excess of 6-inches d.b.h.</p>	<ul style="list-style-type: none"> Policies that merely discourage do not create enforceable mandates. Please explain in what context and by what agency tree removal will be discouraged. Will this policy pertain to development and agricultural activity that does not require discretionary permits? How will this policy be coordinated with Mitigation Measure BIO 2.2, calling for an Oak Woodlands Mitigation Program?
<p>T-4.1 Land uses and practices that may contribute to significant increases of siltation, erosion, and flooding in the Toro area shall be prohibited.</p>	<ul style="list-style-type: none"> Please identify performance standards for "significant increases of siltation, erosion, and flooding." Without such standards this policy will not be enforceable. Please explain how cumulative impacts from sedimentation would be addressed under this policy, if at all.
<p>The DEIR references provisions in the Wine Corridor plan in support of the conclusion that impacts to species and movement corridors will not be significant:</p> <p>"Section 3 of the Wine Corridor Plan provides limits on the number of wineries in each segment. Section 3.4 (Permitted Uses) and 3.5 (Development Standards) is intended to reduce the footprint of a winery complex. Section 4 of the Agricultural Element includes policies that support the development of a fully integrated wine industry and encourage development along the designated corridor. Policy AG-4.2 designates segments of the corridor to achieve a balance between wine grape production and wine processing capacity." DEIR, p. 4.9-72.</p> <p>"AG-4.3 addresses the development of a Winery</p>	
<ul style="list-style-type: none"> Please see discussion below related to the DEIR's failure to adequately describe new vineyard development and new agricultural cultivation that is already occurring and which will be accelerated in response to increased winery capacity. Reduced footprints of wineries does not reduce footprints of vineyards. Encouragement of additional vineyards will directly cause habitat conversion in sensitive sloped lands at the edges of the Valley. It is not clear that wineries will in fact be confined to the winery corridor. Policy AG 4.4 provides that Policies AG 4.1 through 4.3 "do not limit the development of wineries within or outside of the designated winery corridor. Wineries outside of the designated winery corridors and additional wineries within the corridors beyond those specifically listed are allowed, subject to conformance with all regulations of the underlying zoning district." Large wineries subject to discretionary permitting will not enjoy any permit streamlining by locating in the winery corridor area. 	

75

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 33

Policies Cited As The Basis of Significance Conclusions Related to Biological Impacts

Corridor Plan to encourage development of the wine industry within the designated corridor. The Corridor Plan establishes limits on the facilities that could be permitted under the Plan along with development criteria." DEIR, p. 4.9-91.

- In view of the fact that the winery corridor interrupts the key east-west movement corridor, a policy of concentrating development in this area will cause adverse effects on wildlife movement. Please explain how the winery corridor policies support the conclusion that impacts to movement corridors and species will be less than significant.

75

2. Proposed mitigation measures for special status species are not adequate

BIO 1.1: Special status species (SSS) are defined more broadly under CEQA than they are in the 2007 General Plan. Thus, General Plan policies that are specifically targeted to protection of federal and state endangered and threatened species will not serve to mitigate all impacts to SSS. This shortcoming is acknowledged by the DEIR and is proposed to be addressed by Mitigation Measures BIO 1.1 and BIO 1.3.

BIO 1.1 calls for expanding the inventory of species and habitats required under Policies OS 5.1 and 5.2, which call for mapping species and habitat and promoting conservation, to include habitat for CEQA-defined SSS. However, as discussed in the table above, neither Policy OS 5.1 nor OS 5.2 constitute an adequate foundation for the conclusion that impacts to affected species and habitat will be less than significant. Simply expanding the numbers of species and types of habitat covered by these inadequate policies will not ensure protection of the additional species or habitats.

In particular, neither Policy OS 5.1 nor OS 5.2 explains how the mapped information will be used. It is difficult to understand why critical habitat designation mapping has not already been undertaken in connection with the development of land use designations in the 2007 General Plan. In the absence of a systematic review of habitat information, there is no basis for concluding that the land use designations have avoided authorizing development in areas that will result in impacts to special status species, loss of habitat, and impacts to movement corridors. We ask again that the EIR explain why mapping has not already been conducted and the results used to develop land use designations.

Furthermore, neither Policy OS 5.1 nor OS 5.2 explains what specific activities, programs, or permitting constraints would be required in order to "promote" conservation of threatened and endangered plants. Without more information about specific activities, development constraints, responsible agencies, and resources to be committed, there is no basis to conclude that a policy vaguely requiring the County to "promote" conservation will be effective.

Finally, Policy OS 5.1 unaccountable fails to include the promotion of the conservation of threatened and endangered *wildlife* species (as opposed to plants). This is no doubt a drafting error, but it is symptomatic of a carelessly framed set of policies with no real substantive content.

76

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 34

BIO 1.3: The proposed additional mitigation measure BIO 1.3 calls for project-level surveys and mitigation for impacts to CEQA-defined SSS and sensitive natural communities. This additional measure will not suffice.

First, BIO-1.3 fails to provide any performance standards or examples of the mitigation that is to be required or any standards for the biological surveys that are to be required (which are to be developed later). BIO-1.3 amounts to a requirement that future projects obtain a report and follow its recommendations, which is precisely the kind of deferred mitigation that CEQA does not countenance. *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794 ("an agency goes too far when it simply requires a project applicant to obtain a biological report and then comply with any recommendations that may be made in the report.").

Second, the project-level surveys and mitigation for impacts to CEQA-defined SSS and sensitive natural communities called for by BIO-1.3 are to be applied only to discretionary permit projects, large scale wineries, and development in focused areas. This list does not include conversion of previously uncultivated land for agriculture, e.g., viticulture, despite DEIR's acknowledgement that these conversions may be source of significant impacts:

"The installation of new vineyards, row crops, and other actively managed agricultural uses (including routine and ongoing agriculture), mining extraction, and other activities could also result in the elimination of essential habitat for CEQA-defined special-status species. Even if the sensitive habitat is deliberately avoided at the project level, new development and intensively managed land practices would result in fragmentation of the existing habitat and leave the CEQA-defined special-status species population at risk of extirpation (local extinction). The exact amount of habitat conversion due to agricultural expansion onto uncultivated lands is not known." DEIR. P. 4.9-65.

The DEIR's subsequent claims that habitat conversions for agriculture would not cause impacts are inconsistent with this statement and not otherwise adequately founded. DEIR, pp. 4.9-76 and 4.9-95. As discussed in Sections 4 and 5 below, the DEIR underestimates both the extent and concentration of habitat conversions for agriculture because it dilutes the recent trends in conversion with out-of-date information and because it fails to observe that the winery corridor plan will concentrate conversions in sensitive habitat areas on sloped land at the edge of the Salinas Valley and along a north-south axis that will impede movement corridors.

Nor will BIO-1.3 be applied to any other projects that do not require discretionary permits, but which nonetheless have the potential to impact special status species and habitat. These include small-scale wineries and associated visitor-serving uses, development of residential units on lots of record, and development on slopes (which are particularly likely to contain valuable habitat) under the proposed but currently undefined "ministerial" permit conditions. Because no provisions for protection of biological

77

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 35

O-11g

resources for development in these areas have actually been spelled out, there is no basis to conclude that these developments will not have impacts.

77

BIO 1.2: Mitigation measure BIO 1.2 calls for development of a kit fox conservation plan within four years. The focus area of the plan is to be the Salinas Valley area south of Chualar. DEIR, p. 4.9-75. This area contains extensive intact natural vegetation suitable for kit fox habitat, but, also suitable for agricultural cultivation. See TNC, Intact Natural Vegetation Designated for Agriculture in Southern Monterey County, 2009, Exhibit A.¹ As discussed below, this land is now, and will continue to be, subject to pressure for new cultivation. Conversion to row crops or viticulture will significantly impact its value as kit fox habitat.

Thus, the postponement of that plan for four years with no interim measures will permit unmitigated impacts in the interim. It will also create incentives to accelerate development in the interim to avoid the cost of mitigation.

78

BIO 1.2 contains no provision that would apply to projects in the event that the County fails to complete the conservation plan within 4 years. It also fails to identify the area affected with any specificity or to demonstrate that there will in fact be sufficient development to fund a plan through mitigation fees. Because only discretionary development projects would be included, it is entirely possible that development in the area such as vineyard or other agricultural conversions, or residential development on lots of record, would proceed without any contribution to the mitigation fees, causing unmitigated cumulative impacts.

BIO 1.4 and 1.5: The DEIR acknowledges the potential for impacts to special status species to be significant enough to warrant additional mitigation beyond 2030, but does not explain why impact will not occur sooner. The DEIR should explain how it can be determined with such precision that an NCCP and a revision to the General Plan would be necessary by 2030, but not before.

The DEIR proposes to mitigate impacts to special status species through buildout in part through BIO 1.4, calling for an update to the General Plan by 2030 to identify expansion of focused growth areas to accommodate at least 80% of future growth. This Board of Supervisors may believe that a new general plan should be created in 2030, but it cannot bind a future board to that opinion. Thus, this mitigation measure is not enforceable.

79

The DEIR also proposes that the County complete an NCCP "for all incorporated [sic, unincorporated] areas in Monterey County" by 2030 to address impacts to special status species. As discussed below in Section 5, an NCCP is needed to address landscape level

¹ The Nature Conservancy prepared this analysis using GIS shape files of the 2007 General Plan land use designations for each Planning Area provided by the County of Monterey. Slope data was based on the 30m Digital Elevation Model from the National Elevation Dataset (NED), which was derived from USGS 24k contour lines. Vegetation data was based the CalVeg2000 dataset. Linkage data was based on the sources cited in the map legend.

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 36

O-11g

impacts, but the time to develop it is now. The DEIR states that the General Plan's planning horizon is 20 years. DEIR, p. 3-8. As proposed, BIO 1.5 permits unmitigated impacts for the duration of the General Plan's planning horizon.

79

3. Proposed mitigation measures for impacts to natural communities are not adequate

The DEIR correctly concludes that the 2007 General Plan does not provide a systematic approach to protection of all sensitive natural communities or guide implementation of development so as to avoid, minimize, or compensate for those impacts. DEIR, p. 4.9-85. Accordingly the DEIR proposes three additional mitigation measures. None of the three are adequate.

BIO 2.1: BIO 2.1 calls for future development and adoption of a stream-setback ordinance:

"Mitigation Measure BIO-2.1: Stream Setback Ordinance

The county shall develop and adopt a county-wide Stream Setback Ordinance to establish minimum standards for the avoidance and setbacks for new development relative to streams. The ordinance shall identify standardized inventory methodologies and mapping requirements. A stream classification system shall be identified to distinguish between different stream types (based on hydrology, vegetation, and slope, etc.) and thus allow application of standard setbacks to different stream types. The ordinance shall identify specific setbacks relative to the following rivers and creeks so they can be implemented in the Area Plans: Salinas, Carmel River, Arroyo Seco, Pajaro River, Nacimiento, San Antonio, Gabilan Creek, and Toro Creek. The ordinance may identify specific setbacks for other creeks or may apply generic setbacks based on the stream classification developed for the ordinance. The purpose of the ordinance will be to preserve riparian habitat and reduce sediment and other water quality impacts of new development.

The Stream Setback Ordinance shall apply to all discretionary development within the County and to conversion of previously uncultivated agricultural land (as defined in the General Policy Glossary) on normal soil slopes over 15% or on highly erodible soils on slopes over 10%." DEIR, p. 4.9-86.

80

Formulation of the content of this mitigation measure is deferred to some unspecified time in the future. No performance standards are identified - because the very purpose of the ordinance is to establish those "minimum standards." Thus, the mitigation has been improperly deferred.

The DEIR does not contain any substantive information about the actual conditions on the ground that this ordinance will seek to regulate, including soil types, streams affected, likely development patterns, hydrological conditions, or any other factors affecting

TRA ENVIRONMENTAL SCIENCES, INC.

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 37

O-11g

sedimentation and water quality impacts. The DEIR does not even try to evaluate the impacts of development with and without the proposed ordinance.

Agricultural cultivation and residential construction on steeply sloped land is a major source of erosion and sedimentation. Policy OS 3.5 is intended to require a new permitting system for such development, but the policy lacks any substantive content because it defers the future slope development rules without any performance standards. The policy would remove the current ban on development on slopes greater than 25%. Although the policy states that development would not be allowed on slopes over 30%, it permits exceptions that could be granted without any meaningful constraints. Based on mapping data attached as Exhibit B, we note that the change in the current slope development rules would open up 113,678 acres of land County-wide to agricultural cultivation, a figure that represents the number of acres of intact natural vegetation with slopes between 25% and 30% that is designated to permit agricultural use. See TNC, Analysis of Slope and Vegetation by Planning Area for Land Permitting Agriculture Under the 2007 Monterey County General Plan, Exhibit B.² Since the exceptions to the bar on development of slopes over 30% are so widely drawn, the change in policy effectively opens up areas with slopes over 30%, which total 382,753. While it is not likely that all 496,432 acres of intact vegetation sloped over 25% will be cultivated, as discussed below, there will be substantial pressure for new cultivation of agricultural land, and the data demonstrate that there is an abundance of steeply sloped land that will be subject to this new cultivation. Dramatic increases in erosion and sedimentation may result from this activity.

Unless the mitigation measure is revised to identify objective performance standards, it cannot reasonably be said to support a conclusion that impacts will be less than significant. Note also that key terms are undefined, including "normal soil" and "highly erodible soil."³

No deadline for completion of the ordinance is specified and there is no provision for ensuring adequate setbacks in the interim.

It is unclear how development of this ordinance will be coordinated with Policy OS 3.9, which calls for a future program to address potential cumulative hydrologic impacts of the conversion of hillside rangeland to cultivated croplands. Like the proposed development of a stream setback ordinance, the program to address cumulative impacts from converting habitat to croplands is improperly deferred without any performance standards.

² The Nature Conservancy prepared this analysis using GIS shape files of the 2007 General Plan land use designations for each Planning Area provided by the County of Monterey. Slope data was based on the 30m Digital Elevation Model from the National Elevation Dataset (NED), which was derived from USGS 24k contour lines. Vegetation data was based on the CalVeg2000 dataset

³ The DEIR Glossary defines "erodible soil" but does not define "highly erodible soil."

TRA ENVIRONMENTAL SCIENCES, INC.

80

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 38

O-11g

It is unclear whether the County intends to conduct CEQA review of any future ordinance. If it does not conduct CEQA review, the County will have implemented a key program that will bar development of some areas, but permit it in others without any substantive CEQA review. If the County does intend to conduct CEQA review, it should do so now.

BIO 2.2: BIO 2.2 calls for future preparation of a program to mitigate loss of oak woodlands.

Mitigation Measure BIO-2.2: Oak Woodlands Mitigation Program.

The County shall prepare, adopt and implement a program that allows project to mitigate the loss of oak woodlands. The program would include ratios for replacement, payment of fees to mitigate the loss or direct replacement for the loss of oak woodlands and monitoring for compliance. The program would identify criteria for suitable donor sites. Mitigation for the loss of oak tree woodlands may be either on-site or off-site. The program would allow payment to either a local fund established by the County. Until such time as the County program is implemented, payment of a fee may be made to the State Oak Woodlands Conservation Program. Replacement of oak woodlands shall be on a minimum 1:1 ratio.

Again, the County has deferred the development of this program without providing meaningful performance specifications. It is unclear whether the minimum 1:1 ratio is intended to apply to the program to be developed or only to apply to interim mitigation. In any event, a 1:1 replacement ratio will not ensure adequate mitigation. Meaningful performance standards require that the replacement oaks be equivalent in ecological function, including provision of habitat and carbon sequestration. A 1:1 ratio will not even ensure adequate replacement since it has no allowance for disease and mortality. Note that Public Resources Code Section 21083.4(b)(2)(A) requires that mitigation via replacement planting include a requirement for maintaining plantings and replacing dead or diseased trees.

At a minimum, an oak woodland habitat conservation ordinance should follow the model identified by the California Oak Foundation:

Ordinance Intent and Objectives

The intent of this ordinance is to perpetuate oak habitat continuity over time. Objectives of the ordinance are:

- Maintain the maximum amount possible of oak woodland habitat in conjunction with the development process;
- Achieve habitat-level protection by recognizing oak woodland as a complex community of diverse vegetation, wildlife and associated biotic resources;
- Maintain oak species distribution and age diversity;
- Minimize activities that may result in oak woodland fragmentation; and

TRA ENVIRONMENTAL SCIENCES, INC.

80

81

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 39

O-11g

- Acknowledge that oak trees have an economic value in addition to their ecological, historical and aesthetic values.

Ordinance Definitions

"Biologically functional oak woodland" means the ecological relationships between both the oak woodland habitat components and needs of wildlife species which allows for all of the normal life cycle including, migration corridors, genetic pathways, food availability, temperature protection, moisture retention, nutrient cycling, denning, spawning, nesting, and other functions necessary to complete a life cycle. The habitat components must be in sufficient quantities and arrangement to support the diverse assemblage of wildlife species that are normally found on or use oak woodland.

"Ecologically sensitive oak woodland" means oak woodland containing the following habitat elements: (1) multiple or single layered canopy; (2) riparian zones; (3) burrows, caves and cliffs; (4) snags; (5) downed woody debris; and (6) wetlands. The greater the number of these habitat components present, the greater the oak woodland ecological sensitivity.

Oak woodland" means a tree habitat with over ten (10) percent oak canopy cover.

Ordinance Thresholds of Significance

A project's disturbance of oak woodland habitat or dependent species would be considered significant if any of the following occur:

- Reduce or eliminate species diversity or abundance;
- Reduce or eliminate quantity or quality of nesting areas;
- Fragment, eliminate or otherwise disrupt foraging areas or access to food sources;
- Limit or fragment range or movement of species; or
- Result in a loss of 25 percent or more of the existing tree canopy cover on the project site. For example, if a project site had 32 percent existing canopy cover the removal of more than 8 percent of the canopy cover would be considered significant.

Ordinance Habitat Mitigation Measures

Avoidance of significant oak woodland habitat impacts is the preferred method of mitigation. The general requirement for habitat mitigation is the preservation and replacement of oak woodland habitat. Replacement habitat will be at a minimum 3:1 area ratio. In cases of the most ecologically sensitive oak woodland habitat the replacement ratio may be greater. As necessary, habitat mitigation measures shall include the following actions individually or in combination:

- (a) Dedicate in perpetuity for preservation in a natural condition contiguous and biologically functional oak woodlands on-site.
- (b) Procurement of off-site oak woodland habitat, preferably in close proximity to the

TRA ENVIRONMENTAL SCIENCES, INC.

81

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 40

O-11g

project site, and dedicate it in perpetuity for preservation in a natural condition. Procurement includes either off-site land purchases or acquisition of conservation easements. Off-site oak woodland dedications shall be equivalent to the on-site oak woodland acreage and biological values impacted.

(c) In lieu fee payment to a natural resource agency or nonprofit organization for the purchase of local oak woodland habitat. Not more than five percent of in lieu fees collected by a natural resource agency or nonprofit organization for mitigation purposes shall be used for administrative costs.

The in lieu fee payment shall be equivalent to the total oak tree economic value. The economic value of oak trees shall be calculated by the applicant and approved by the local planning department in accordance with the most current edition of the International Society of Arboriculture's "Guide to Establishing Values for Trees and Shrubs." The total oak tree economic value shall be the sum of the ISA values for all oak trees impacted by development.

The DEIR fails to address the provisions of Public Resources Code Section 21083.4 governing oak woodlands mitigation programs. One critical question is whether the County intends to require mitigation for conversion of oak woodlands for agricultural land. Although this is not required by Public Resources Code Section 21083.4(d)(3), it is clear that this must be required by any mitigation program given the extent of the conversion activity projected to occur. Unless it is made clear that agricultural conversions must mitigate loss of oak woodlands, the County cannot reasonably find that the impact will be less than significant.

The DEIR does not explain how the to-be-developed oak woodlands mitigation program will be coordinated with other policies, including Policies OS 5.9, 5.10, and 5.11, CV 3.11, FO Recreation C-1 and C-2, NC 3.4, and T 3.7. This must be discussed and clarified. For example, CV 3.11 and NC 3.4 call for replacement of trees only when "feasible," whereas the proposed mitigation may be read to require replacement whenever trees are removed. Which provision would control?

BIO 2.3: Public Services Policies PS 3.3 and 3.4 call for developing "specific criteria" for proof of a long term sustainable water supply for new development and for evaluation and approval of new wells. BIO 2.3 calls for adding additional "considerations" to the Policies PS 3.3 and 3.4 related to riparian habitat and stream flows:

"Mitigation Measure BIO-2.3: Add Considerations Regarding Riparian Habitat and Stream Flows to Criteria for Long-Term Water Supply and Well Assessment.

Public Services Policies PS-3.3 and PS-3.4 establish the criteria for proof of a long-term water supply and for evaluation and approval of new wells. The following criteria shall be added to these policies:

- Policy PS-3.3.i—Effects on instream flows necessary to support

TRA ENVIRONMENTAL SCIENCES, INC.

81

82

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 41*

O-11g

riparian vegetation, wetlands, fish, and other aquatic life including migration potential for steelhead.

- Policy PS-3.4.g—Effects on instream flows necessary to support riparian vegetation, wetlands, fish, and other aquatic life including migration potential for steelhead.” DEIR, p. 4.9-87.

Once again, the formulation of the ultimate mitigation is deferred without any performance standards.

Policies PS 3.3 and 3.4 themselves call for deferral of the formulation of specific criteria for various parameters related to water supply and well development, including water quality, production capability, effects on wells, and unspecified cumulative impacts. The listing of these parameters in PS 3.3 and 3.4 without specifying acceptable values for them does *not* provide performance standards. BIO 2.3 simply adds another empty parameter to the list – “effects on instream flows necessary to support riparian vegetation, wetlands, fish, and other aquatic life including migration potential for steelhead.” Without specifying values for the parameters, neither PS 3.3 or 3.4 or Mitigation Measure BIO 2.3 actually provide substantive performance standards or criteria.

For example, nothing in BIO 2.3 would require that instream flows be maintained at a level *sufficient* to support *existing* riparian vegetation, wetlands, fish, and other aquatic life including migration potential for steelhead. Nothing in BIO 2.3 would require that instream flows be *increased* where necessary to support a recovery plan, e.g., for steelhead.

Telling the public that the County will eventually come up with a system to evaluate water supply sufficiency and that that system will *consider* effects on instream flows necessary for habitat is not an adequate disclosure under CEQA. Nor is it an adequate basis for concluding that effects will not be significant.

4. The DEIR does not adequately describe new vineyard development, new agricultural cultivation, or the winery corridor itself

CEQA requires an EIR to contain a description of the whole project, which is essential to accurately determine impacts. However, the Winery Corridor (AWCP) program is not adequately described because there is no estimate of the extent and location of new vineyard development that is likely to occur in response to the increase in winery demand for grapes. The fact that grapes are currently exported from the County does not logically mean that this export business will all be diverted to local wineries. Common sense suggests that if shipping grapes out of the County is profitable now, it will remain so, and new grape production will occur in response to new winery demand in the County.

Table 4.9-6 in the DEIR shows that habitat conversion, especially for vineyard development, has accelerated in recent years. Since 1996, habitat-to-agriculture conversions have proceeded at the rate of 820 acres per year, with 40% of that conversion

TRA ENVIRONMENTAL SCIENCES, INC.

82

83

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 42*

O-11g

attributable to vineyards. See DEIR, pp. 4.9-63 and 4.9-46. The DEIR offers no reason to suppose that this trend will not continue and increase in response to increased winery demand. The DEIR’s conclusion that habitat conversion will only proceed at the rate that occurred over a much longer period during which winery demand had not materialized ignores recent trend data and the likely effect of increasing winery demand for vineyard development.

Habitat conversions will also occur because there will be pressure to replace the 2,571 acres of important farm land that will be re-designated for non-agricultural use (DEIR, p. 4.2-12) and because there will be future pressure to convert agricultural land to urban uses (DEIR, pp. 4.2-25 to 4.2-28).

The conversion of previously uncultivated land will not occur at random, as the DEIR suggests. The DEIR admits that the vineyard development has occurred in locations that are particularly sensitive biologically, both with respect to habitat value and with respect to movement corridors:

“Spatial analysis of the vineyard development indicated that most of the recent vineyard expansion is at the valley edges and upslope. As shown in Exhibits 4.9.6, 4.9.7, and 4.9.8, while there are scattered conversions of habitat to agriculture east and west of Prunedale and along the Salinas River north of Fort Ord, the dominant locales of recent conversions are along the eastern and western slope of the Salinas Valley. It is expected that these slopes of the Salinas Valley along with the slopes of tributary valleys to the Salinas Valley will be the likely focus of future conversions of habitat to agriculture.” DEIR, p. 4.9-63.

This is consistent with Exhibits 4.9-6 through 4.9-9, which show that conversions have been occurring in these areas. Based on this evidence, it appears that 820 acres or more of habitat will be lost annually to agriculture and that this lost habitat will be particularly sensitive lands located on slopes on the edge of the Salinas Valley and especially around the winery corridor.

The DEIR’s claim that agricultural conversions will not result in impacts because the pattern of conversions has been dispersed in the past (DEIR, pp. 4.9-76 and 95) is clearly inconsistent with the DEIR’s finding that future conversions will be focused on slopes of the Valley. The claim is also suspect because it fails to recognize the recent acceleration of viticulture conversions and the fact that the winery corridor policies deliberately create incentives for vineyard development proximate to the winery corridor. There will now be a substantial incentive to focus development of vineyards in a long north-south strip that will affect movement corridors, particularly in southern Monterey County around the winery corridor.

The Nature Conservancy identifies expansion of wine grapes into grasslands, oak woodlands, and associated habitats as a key threat to conservation and biodiversity in Monterey County in particular. TNC 2006, p. 30. Vineyard development is identified as

TRA ENVIRONMENTAL SCIENCES, INC.

83

O-11g

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 43*

major threat to key conservation targets including Toro Creek Flats, the Carmel River Watershed, the Arroyo Seco Uplands, the Salinas River Uplands, and Peachtree Valley. TNC 2006, App. J. The California Wilderness Coalition identifies agriculture, especially vineyards, as second only to urbanization in terms of threats to habitat connectivity in the Central Coast region. CWC 2001, p. 43.

The four Planning Areas in southern Monterey County contain 1,041,138 acres of land with intact natural vegetation that is designated to permit agricultural cultivation under the 2007 General Plan. TNC, Analysis of Slope and Vegetation by Planning Area for Land Permitting Agriculture Under the 2007 Monterey County General Plan, Exhibit B. This area is displayed in the attached map of intact vegetation subject to agricultural conversion in the southern portion of the County. See TNC, Intact Natural Vegetation Designated for Agriculture in Southern Monterey County, 2009, Exhibit A. As discussed below, this intact vegetation is valuable habitat and contains critical movement corridors, but it will be subject to concentrated pressure for new agricultural cultivation. The DEIR must accurately disclose the extent and location of this future agricultural conversion activity. Without this information, the EIR cannot evaluate the impacts to biological resources.

Neither the DEIR nor the Draft 2007 General Plan provides a consistent description of the location or extent of the winery corridor itself. Section 2.2 of the AWCP, "Winery Corridor Description," references a map of the Monterey County American Viticulture Areas (Figure AWCP-2, AVA map) and states that the "portion of the Monterey AVA [American Viticulture Areas] located south of Highway 68 plus the other seven AVAs shall be used for defining the boundary of the Agriculture and Winery Corridor." 2007 GP, p. AWCP-4, emphasis added. Section 2.2. goes on to state that the AWCP would consist of three segments shown on Figure AWCP-3 that extend through the Toro, CSV, and South County Planning Areas. However, the AVA regions depicted on Figure AWCP-2 are much larger than the area depicted on Figure AWCP-3. The AVA map includes appellations that are not included in segments depicted in Figure AWCP-3, e.g., San Antonio Valley, Santa Lucia Highlands, Chalone, Carmel Valley, and the appellation Monterey itself which consists of most of the Salinas Valley not otherwise designated. The AVA map also shows that the appellations that are partially included in the three segments depicted in Figure AWCP-3 are actually much more extensive in area than depicted, e.g., San Lucas, San Bernabe, and Arroyo Seco. Since the AWCP is not defined textually by metes and bounds, and since the two figures purporting to define it are inconsistent, the public has no clear idea where the AWCP development policies will in fact be applied. Based on the text of the 2007 General Plan itself, developers will be free to argue that the AWCP policies should be applied wherever the AVA appellations apply – essentially anywhere in the Salinas, Carmel, Haynes, or San Antonio Valleys.

Complicating this failure to produce consistent maps are Exhibits 4.9-2, 4.9-3, and 4.9-4 which purport to show the habitat in the winery corridor areas. These three exhibits depict a much smaller area than either Figures AWCP-2 or AWCP-3. These maps suggest that the DEIR has failed to consider the extent of the habitat that will in fact be placed at risk by the winery corridor.

TRA ENVIRONMENTAL SCIENCES, INC.

83

O-11g

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 44*

The DEIR must accurately disclose the extent and location of the winery corridor. Without this information, the EIR cannot evaluate the impacts to biological resources.

5. Movement corridor and habitat fragmentation impacts will remain significant because analysis and mitigation of these impacts is deferred to project-level CEQA reviews and will not be effective

No systematic analysis of movement corridors and habitat fragmentation

The identification and establishment of adequate wildlife movement corridors should be considered at the onset of the general plan process. According to Ron Rempel, a former biologist for the California Department of Fish and Game, "animals need large blocks of habitat to sustain a robust population; if they lose access to adequate habitat, their populations can be wiped out."

Birds, plants, and other terrestrial life also suffer from habitat fragmentation. Wildlife deprived of an adequate gene pool become in-bred and lose genetic diversity, which gradually weakens and diminishes the ability of their species to adapt and survive. Reducing even a single species' population may upset the balance of biodiversity. If coyote habitat is fragmented, for instance, fewer will be left to control populations of skunk, possum, raccoon, and smaller animals they feed upon. Populations of their prey will increase, upsetting nature's balance all the way down the food chain. Corridors should be large enough so that deer and mountain lion can travel for miles and even cross highways to seek food, mates, and shelter from predators. Isolation of the species, a result of development, disrupts biodiversity and causes long-term consequences for survival of the species. Many birds will not fly to habitat they cannot see, and snakes, tortoises, and other slower-moving creatures cannot maneuver successfully in trafficked areas. Plants isolated from access to cross-pollination by insects also lose genetic diversity.

We agree with the conclusion in the DEIR that the General Plan does not provide a systematic approach to address impacts of development to key wildlife movement linkages. We further agree that the impact is significant because development under the 2007 General Plan could result in a reduction of linkage between wildlife species populations and reduction in migration of fish and other species along river corridors. However, the DEIR does not present any systematic, empirical analysis of the impacts that will be caused by development under the 2007 General Plan, including habitat fragmentation and interruption of movement corridors. Such an analysis must be performed before the County permits further development, while flexibility still remains to alter or condition that development.

For example, habitat lost to agricultural conversions will fragment habitat and interrupt movement corridors, particularly the east-west corridor across the Salinas Valley. However, the DEIR did not evaluate these impacts with reference to any actual data regarding particular habitat values, movement corridors, or proposed development

TRA ENVIRONMENTAL SCIENCES, INC.

83

84

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 45

O-11g

patterns. Also contributing to these impacts will be the development of the winery corridor, associated visitor serving uses, and other induced growth. A study conducted by Kim Nicolas Cahill of Stanford University for the Nature Conservancy found that "vineyards may be an impediment to the movement of some large mammalian species, based on observed low levels of use and lack of some native species. Significantly more native mammalian predators were detected in wide corridors than in narrow or denuded corridors, and species richness was significantly higher in wide corridors." Again, the DEIR did not evaluate the effects of the winery corridor on actual habitat and movement corridors.⁴

According to The Nature Conservancy's 2006 report, California Central Coast Ecoregional Plan Update, over the last few decades the natural systems of the Central Coast ecoregion have been dramatically impacted by significant changes in land use. TNC, 2006. Most notable are: suburban and rural-residential (exurban) sprawl associated with nearly every city and town; conversion of thousands of acres of historic rangeland and other natural lands to vineyards; expansion of services such as transportation corridors, groundwater pumping, water diversions and commercial developments; spread of invasive, non-native species and global warming. These trends threaten the integrity of the regional landscape and its unique, heterogeneous biodiversity patterns.

These threats were also confirmed by the California Wilderness Coalitions 2001 report, Missing Linkages: Restoring Connectivity to the California Landscape, which was referenced but not discussed by the DEIR. CWC identified the following threats to habitat connectivity within the Central Coast ecoregion: urbanization, agriculture and roads, vineyard development, spread of invasive species, water diversions and changes in water flow regimes, and military activities. Vineyard development alone jeopardized 30% of the identified critical linkages.

The 2006 TNC study and the 2001 CWC study are examples of the kind of empirical analysis that the DEIR should have undertaken and/or relied upon to evaluate potential impacts. Although the DEIR references the 2001 CWC study and may have used it to prepare a list of six movement corridors, it contains no discussion of the study other than noting that future development could affect the listed corridors.

FRAGMENTATION OF CRITICAL CONSERVATION AREAS: For example, the 2006 TNC report identifies critical conservation areas within the central coast region of California on the basis of their potential to sustain biodiversity and habitat connectivity. Piecemeal development of these areas would substantially compromise these goals and would be a significant impact. By way of example, we list a few of the conservation areas that could be significantly impacted by General Plan growth and policies:

⁴ We note again that DEIR Exhibits 4.9-2, 4.9-3, and 4.9-4 purporting to show habitat in the winery corridor areas are inconsistent with 2007 General Plan Figures AWCP-2 or AWCP-3, which show a much larger area for the winery corridor.

TRA ENVIRONMENTAL SCIENCES, INC.

84

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 46

O-11g

Arroyo Seco Uplands. (Area ID: 99⁵). This area contains the extremely unique Arroyo Seco stream system as well as adjacent uplands supporting oak woodlands, lowland grasslands, wildflower fields and critical wildlife linkages. The Arroyo Seco supports one of few sycamore alluvial riparian woodlands in the ecoregion as well as very high quality alluvial sage scrub. The stream is the primary tributary in the Salinas River system that still sustains federally threatened steelhead and California red-legged frog. It also supports speckled dace and resident stickleback. According to TNC, the Arroyo Seco Uplands are threatened by reduced water flow resulting from surface diversions and groundwater pumping; gravel mining which removes unique sycamore riparian forest habitat and fundamentally alters the river channel; and vineyard development along the alluvial terraces that destroys key uplands and impedes wildlife passage to nearby habitat areas.

Carmel River Watershed - Sierra de Salinas (Area ID: 24). This conservation area includes the Carmel River as well as target-rich public and private lands within the watershed. The upper part of the watershed supports some of the most extensive valley oak savannahs remaining in the ecoregion, along with scattered vernal pools and wetlands located along the Tularcitos Fault. California fairy shrimp (*Linderiella occidentalis*) have been found in the vernal pools near the University of California Hastings Reservation. There are scattered small stands of maritime chaparral dominated by endemic *Arctostaphylos* and *Ceanothus* in the eastern portion of the site—the Sierra de Salinas. The eastern edge of the site in the Sierra de Salinas range is important as a regional ecological linkage between the Santa Lucia Range and the Salinas River. Major lands use threats are ranching and vineyards on private lands.

Salinas River Uplands (Area ID: 97). The Salinas River Valley once consisted of extensive annual grasslands, utilized as cattle rangeland. Rangelands on the valley floor have been converted to vineyards at a massive scale over the last decade. This small site encompasses the last major remnant of grassland habitat remaining along the Salinas River and is important to wildlife species associated with grasslands. It is extremely vulnerable to conversion. The conservation areas supports the federally threatened San Joaquin kit fox and steelhead. Major lands use threats are ranching and agricultural conversion, including vast areas of vineyards on private lands.

The DEIR should be revised and recirculated to evaluate the effects of permitted development on the specific resource areas identified by TNC. Alternatively, the County should undertake its own science-based, empirical identification of key conservation areas and evaluate the effects of the 2007 General Plan on those areas.

⁵ The areas are discussed in Appendix J and the areas are mapped by ID numbers on Figures 19 and 20 of the TNC report. TNC, 2006.

TRA ENVIRONMENTAL SCIENCES, INC.

84

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 47*

O-11g

IMPACTS TO MOVEMENT CORRIDORS: TNC designed the Central Coast ecoregional portfolio to maximize connectivity between portfolio conservation areas, and, in some of these connections are embedded within conservation area site boundaries. However, TNC determined that, where significant gaps exist between areas within the portfolio, linkage corridors need to be maintained so that the full spectrum of native species will be able to move between natural areas in the regional landscape.

Exhibit A, TNC, Intact Natural Vegetation Designated for Agriculture in Southern Monterey County, 2009 includes the linkages identified in the 2006 TNC report as well as linkages identified from other sources, including the California Wilderness Coalitions 2001 report. CWC, 2001. Exhibit C, TNC, Linkage Summary for the Central Coast, is a spreadsheet describing the linkages shown in Exhibit A. Although the linkage locations and boundaries are approximate and are not intended to be exhaustive, the map and linkage descriptions are based on the best available science. The County should undertake a thorough inventory of movement corridors that may be affected by development in a revised DEIR. At a minimum, the corridors identified by TNC should be evaluated. We note that the linkages in Exhibit A represent a substantial refinement and update the CWC 2001 data, which was apparently the sole basis of the DEIR's listing of potentially affected movement corridors. DEIR, p. 4.9-89 to 90.

Development of all kinds permitted under the 2007 General Plan, including residential, agricultural, and commercial projects, has the potential to interrupt these linkages. The DEIR must be revised to discuss these specific linkage impacts in relation to permitted development. Formulation of meaningful, substantive mitigation must be based on such an analysis in this first-tier CEQA document because, as discussed below, project-level analysis and mitigation will not be sufficient.

Development of wineries and vineyards in the Salinas Valley in particular will affect the critical linkages identified by TNC and the CWC. For example, Linkage 339 on Exhibit A connects TNC Conservation Area 24 (Carmel River Watershed – Sierra de Salinas) with TNC Conservation Area 57 (Southern Gabilan Range). Linkage 339 is needed to maintain permeability through agricultural lands so wildlife can move between valley floodplain and adjacent foothills (see Exhibit C).

Other examples of linkages that may be interrupted by agricultural conversions and wineries are Linkage 307 (Santa Lucia - Gabilan, Ventana Wilderness), Linkage 357 (Arroyo Seco-Salinas River), and Linkage 378 (Salinas River, Pinnacles National Monument), all of which provide critical connectivity between TNC Conservation Area 57 (Southern Gabilan Range) and TNC Conservation Area 99 (Arroyo Seco Uplands). See Exhibits A and C.

Linkage 307 is considered a choke point to east/west movement. The area contains grassland, scrub and oak woodlands. Highway 101 is a major impediment as are gaps in habitat cover, sand/gravel operations, agricultural, and residential development.

TRA ENVIRONMENTAL SCIENCES, INC.

84

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 48*

O-11g

Linkage 357 is a key steelhead corridor as well as an important wildlife corridor between Salinas River and Santa Lucia Range. The linkage needs native habitat restoration across the valley floor.

Linkage 378 includes the area along Salinas River where river floodplain has unobstructed connections to foothills of southern Gabilan Range. This linkage provides regional connectivity across the Salinas Valley floor.

Linkage 353 is one of few areas in this ecoregion where wildlife can move through natural habitat between the Salinas River and southern Sierra de Salinas.

These are just a few examples. There are additional linkages shown in Exhibit A and described in Exhibit C that require detailed analysis of the effects from agricultural conversion and the winery corridor in the DEIR, e.g., 316, 339, 354, 343, and 308. In particular the impact analysis must address the following:

- the type and land area of habitat that will be directly lost to development and agricultural conversion
- how and where the habitat will be fragmented,
- loss of connectivity between important natural open space,
- effects of increased human presence including more vehicles, increased levels of noise, trash, predatory pets (dogs and cats), and invasive plant species, and
- reduced water quality and increased sedimentation.

In order to establish and ultimately protect wildlife corridors the County must identify and evaluate each corridor area in a first-tier EIR *before* further piecemeal development is permitted. The development that is permitted must accommodate the wildlife corridors and linkages.

PROTECTION OF MOVEMENT CORRIDORS: There are a number of general principles for designing and monitoring the effectiveness of wildlife corridors. The following are taken from Bond (2003):

Six Step Corridor Evaluation

Step 1: Identify the habitat areas the corridor is designed to connect.

Step 2: Select several target species for the design of the corridor (i.e., select "umbrella species").

Step 3: Evaluate the relevant needs of each target species.

Step 4: For each potential corridor, evaluate how the area will accommodate movement by each target species.

Step 5: Draw the corridor on a map.

Step 6: Design a monitoring program.

TRA ENVIRONMENTAL SCIENCES, INC.

84

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 49*

O-11g

Evaluating how the potential corridor will accommodate movement by each species (Step 4) is a critical step in the process. The evaluation should include the consideration of how likely the animal will encounter the entrance to the corridor, actually enter the corridor, and follow it to the end. Additionally, it is important to consider whether there is sufficient concealing cover, food, and water within the corridor for the animal to reach the full length of the corridor, or whether such elements need to be created and maintained. Finally, specific impediments to movement within the potential corridor must be assessed, including topography, roads and type of road crossing, fences, outdoor lighting, domestic pets, noise from vehicle traffic or nearby buildings, and other human impacts.

For Monterey County at a minimum wildlife corridors must be determined in advance of siting development for larger more adventurous animal like deer, bobcats, mountain lions, fox, kit fox as well as for smaller more restricted species such as the California red-legged frog (CRLF), California tiger salamander (CTS), steelhead, and San Joaquin kit fox (SJKF). Both the CRLF and CTS require breeding habitat, upland retreat habitat, and dispersal corridors that connect suitable breeding habitats. In order to determine appropriate wildlife corridors for these species, as well as other species, a County-wide assessment should be conducted of potential breeding, foraging, and cover habitats for these species. Then, a slope, terrain, land use, and vegetation assessment should be conducted to determine how the species would disperse to nearby habitats. Dispersal between breeding, foraging and cover habitats is critical to these species as it provides for genetic mixing between populations and helps maintain viable populations. Roads and other high risk land uses should be considered when conducting dispersal modeling.

For the steelhead, a study must be conducted that assesses current use of creeks and rivers for spawning and rearing, and that identifies barriers to movement upstream to spawning grounds. Things such as down logs, fallen rip rap or discarded trash, heavy siltation, pollutants, mud slides, beaver dams, water diversions, etc. should be included in the assessment. Without knowing the existing conditions of steelhead spawning creeks and rivers, it is impossible to establish workable movement corridors for this species.

For the San Joaquin kit fox, the DEIR defers the preparation of a habitat conservation plan as follows:

"The County shall, in concert with the USFWS, CDFG, cities in the Salinas Valley, and stakeholders develop a conservation plan for the Salinas Valley to provide for the preservation of adequate habitat to sustain the San Joaquin kit fox population. The general focus area of the plan shall be the Salinas Valley south of the community of Chualar. The Conservation Plan, at a minimum, shall be adopted by Monterey County and shall be applied to all discretionary approvals (and their associated CEQA documents) with potential to affect the San Joaquin kit fox within the conservation plan area. The County shall complete the conservation plan within 4 years of General Plan adoption."

TRA ENVIRONMENTAL SCIENCES, INC.

84

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 50*

O-11g

We have been involved with the preparation of HCP's since the mid 1980's. We are currently working on a combined HCP/NCCP for Placer County. That effort has already taken more than six years, and is probably another two years from completion. That is double the four years identified for completion of a Monterey County Kit Fox HCP. In the meantime, scattered development could occur that forecloses the establishment of habitat corridors for the kit fox, especially in the wine corridor. Again, in accordance with principles of conservation biology, a regional study is needed to determine core kit fox habitat (including denning and foraging areas, areas of dispersal, and areas of risk (such as roads, fenced agricultural lands, areas with high red fox or coyote populations).

Mitigation is inadequate

The DEIR admits that the policies that it cites as partial mitigation will not systematically address impacts to movement corridors. DEIR, 4.9-93, 4.9-94. For example, policies that call for compact development apply to urban uses and do not constrain agricultural conversion and visitor serving uses in the winery corridor, which are encouraged. Thus, development in the winery corridor will result in habitat fragmentation and will constitute a significant block to the east-west movement corridor that the DEIR acknowledges to exist (DEIR, p. 4.9-93 to 94). As noted above, the DEIR admits that agricultural conversions and winery expansions could destroy and fragment habitat, which would interfere with movement corridors:

"The installation of new vineyards, row crops, and other actively managed agricultural uses (including routine and ongoing agriculture), mining extraction, and other activities could also result in the elimination of essential habitat for CEQA-defined special-status species. Even if the sensitive habitat is deliberately avoided at the project level, new development and intensively managed land practices would result in fragmentation of the existing habitat and leave the CEQA-defined special-status species population at risk of extirpation (local extinction). The exact amount of habitat conversion due to agricultural expansion onto uncultivated lands is not known." DEIR, P. 4.9-65.

The proposed mitigation, BIO-3.1, is to require discretionary permits at the project-level to consider wildlife movement:

"Mitigation Measure BIO-3.1: Project-Level Wildlife Movement Considerations.

The County shall require discretionary projects to retain movement corridors of adequate size and habitat quality to allow for continued wildlife use based on the needs of the species occupying the habitat. The County shall consider the need for wildlife movement in designing and expanding major roadways and public infrastructure projects to provide movement opportunities for terrestrial wildlife and to ensure that existing stream channels and riparian corridors continue to provide for wildlife movement and access." DEIR, p. 4.9-94.

TRA ENVIRONMENTAL SCIENCES, INC.

84

O-11g

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 51*

This mitigation is inadequate to address impacts to wildlife movement and nursery sites for two reasons.

First, the assessment of impacts related to habitat fragmentation and movement corridors should be undertaken at the landscape level in a first-tier CEQA analysis, not deferred to later project-level reviews. The proposed mitigation measure admits that because the General Plan policies do not systematically address these issues, their analysis and mitigation will be postponed to later project-level reviews. However, it is against the principles of conservation biology to evaluate impacts to wildlife movement corridors on a project-by-project basis. That type of analysis forecloses the ability of the County to preserve and protect natural communities and corridors on a regional scale. The proposed project-level review of cumulative regional impacts violates the most basic tenets of conservation biology include the following:

- Species that are well-distributed across their native ranges are less susceptible to extinction than are species confined to small portions of their ranges. Maintaining appropriate habitat for these species within the context of broader ecological goals (e.g., improve or maintain desirable vegetation structure and hydrological regimes, eliminate invasive exotics) is the most important conservation action.
- Large conservation areas containing large populations of the special status species are superior to small conservation areas containing small populations. While the persistence of all populations is subject to the effects of normal random environmental events (environmental stochasticity) and catastrophes such as wildfires and severe drought, the persistence of small populations is additionally threatened by random variations in birth or death events (demographic stochasticity) and random changes in genetic composition (genetic stochasticity). Large areas with high quality habitat for species tend to mitigate the combined effects of these factors. Thus, for example, acquisition of conservation areas should preferentially add to existing protected areas.
- An arrangement of conservation areas that facilitates dispersal of individuals among these areas is necessary to encourage demographic rescue effects (whereby dwindling populations are supplemented by migrants), and continued genetic interchange. All else being equal, conservation areas that are close together are more likely to support sensitive species for longer time periods than will isolated areas; thus, if it is not possible to acquire new conservation areas that add to existing ones, acquisitions should be made in proximity of protected areas.
- Interpopulation dispersal is important for regional species persistence. Before allowing fragmentation of natural communities, it is critical to identify areas that can provide connections between communities to increase the likelihood of successful dispersal. Such dispersal not only enhances the persistence probabilities of sensitive species (Wiens et al. 1993), but it also helps maintain the overall diversity of plants and animals within a given area (Hansen and Urban

84

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 52*

1992) and allows the entire regional habitat network to function as a healthy ecological community.

- Habitat for a particular species within a conservation area that occurs in less fragmented, contiguous blocks is preferable to habitat that is fragmented. Conservation areas should minimize internal fragmentation and barriers to species movement. Viable populations of many species require large blocks of habitat where the presence of disruptive edge-dwelling species, such as cowbirds and house cats, is minimized. Habitat highly fragmented by disturbed or developed lands has relatively little conservation value for species that exhibit high habitat specificity.
- Efforts should be directed toward maximizing heterogeneity in conservation areas. Areas that have diverse topography, soils, and vegetation tend to capture a variety of different habitat types and thus support a richer biota than more homogeneous areas.

Large scale planning is critical because it is the only way to ensure protection of large blocks of contiguous habitat and linkages. Studies have consistently shown that the number of native species decreases as habitat area decreases. TNC 2006, p. 46.

The General Plan will determine the location and intensity of development at a regional scale. Accordingly, this EIR represents the County's final opportunity to develop mitigation or consider alternatives that would address impacts at a regional scale. Identification of affected habitats and species is critical early in the planning effort because many natural communities are restricted to one or a few ecoregions, e.g., the valley, blue, and coast live oak woodlands of the foothills. TNC 2006, p. 24. For example, it may be appropriate to limit development in certain areas in order to minimize habitat fragmentation and preserve or even expand movement corridors. This can be done by increasing the width of riparian corridors, eliminating development next to existing open space, and preserving important topographic features including vegetated swales, plateaus, and ridgetops. The opportunity to do this will be lost if regional scale impacts are not considered now.

Second, most of the proposed development in the winery corridor and most habitat conversions for agriculture will not require discretionary permits, so this activity will not even be subject to further CEQA review. For example, conversion of previously uncultivated land to agricultural use is considered "Routine and Ongoing Agricultural Activity," and will be allowed without discretionary permits, unless it involves slopes in excess of 25%. DEIR, p. 3-47. If an agricultural conversion does involve slopes over 25%, it may require a discretionary permit, or it may not. DEIR, p. 3-47; GP, p. C/OS-8, Policy OS-3.5. Policy OS-3.5, addressing slope development, provides for a ministerial permit for conversion of previously uncultivated land on slopes over 25%, except for conversions meeting "criteria when a discretionary permit is required." Because these criteria are currently unspecified and are to be developed later, it is impossible to

84

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 53

determine whether these conversions will be subject to CEQA review. Policy OS-3.5 calls for a ministerial permit for all other conversions on slopes over 25%, which would therefore also not be subject to CEQA review. The ministerial permit is to require compliance with conditions for resource areas including water quality, biological resources, and erosion control; however, these conditions have not been identified and there can be no assurance that they will address regional scale impacts.

Indeed, in its cursory discussion of cumulative impacts, the DEIR admits that “non-discretionary activities, such as the conversion of grassland to intensive agriculture, will also contribute to the larger impact on these [biological] resources.” DEIR, p. 6-22. The DEIR concludes that there will in fact be considerable contributions to cumulatively significant impacts due to this activity. The DEIR must explain why the conversion of grassland should be treated as a non-discretionary activity through a policy related to routine and ongoing agriculture. Mitigation for impacts related to conversion is obviously available: those conversions can be regulated through land use restrictions, discretionary permitting, or, alternatively, through development of a Natural Communities Conservation Plan (NCCP). The NCCP program sets out to create regional conservation and development plans that protect entire communities of native plants and animals while streamlining the process for compatible economic development in other areas. The NCCP program was established by the California Department of Fish and Game (CDFG). In order to preserve large intact natural communities, rather than piece meal habitats related to a single listed species, CDFG, through funding and staff support, assists land use agencies with the preparation of a program to acquire and set aside natural communities that support multiple species. A NCCP has helped San Diego and Riverside Counties set aside large tracts of coastal sage scrub and other important natural habitats.

In short, most agricultural conversions will not be subject to future CEQA review. Furthermore, the criteria that will determine when discretionary review is required or what conditions will be included in a ministerial permit for conversion have not been developed. There can be no assurance that unspecified conditions on ministerial permits and uncertain future CEQA reviews will mitigate impacts involving habitat fragmentation and interruption of movement corridors.

And most of the winery related uses in the winery corridor will require only a ministerial permit and will thus be exempted from CEQA, including 40 artisan wineries, tasting rooms, winery-related food-facilities, winery events, unspecified “visitor serving uses,” and up to 4 residences per winery. DEIR, p. 3-41, Table 3-16; 2007 General Plan, pp. AWCP-10 to AWCP-12. Only the 10 full-scale wineries, restaurants, lodging, and business clusters will require a permit subject to CEQA. Indeed, a key objective of the winery corridor plan is to streamline the review and permitting process. 2007 General Plan, pp. AWCP-1 and 2. The winery corridor plan states that this streamlining is to be achieved by providing “for the assessment of cumulative impacts early in the planning process.” However, the proposed mitigation essentially puts off any consideration of quintessentially cumulative impacts – the impacts to movement corridors and nursery

TRA ENVIRONMENTAL SCIENCES, INC.

84

O-11g

Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 54

sites – to subsequent project-level CEQA reviews that will not actually apply to most of the proposed uses. 2007 General Plan, p. AWCP-2.

The AWCP section of the 2007 General Plan calls for an unspecified “monitoring program” to be “conducted at five-year intervals in conjunction with the Monterey County Vintners and Growers Association or its successor. This program will assess if the impacts were correctly anticipated and mitigated in the environmental analysis conducted for this Plan, and, if not, what additional measures shall be taken.” 2007 General Plan, pp. AWCP-18 to AWCP-19. This deferral of the analysis of actual impacts is no substitute for an adequate current analysis. The County will no longer have the discretion to condition the permitted development, even if the subsequent analysis demonstrates that it should have done so. And the involvement of the regulated community in this post hoc review is not likely to sharpen its focus, since that community will have little incentive to find problems or take action to address them.

The DEIR cannot reasonably conclude that Mitigation Measure BIO 3.1 will mitigate impacts involving habitat fragmentation and interruption of movement corridors. Additional feasible mitigation should be proposed, including the requirement that a county-wide wildlife corridor study using, at a minimum, the wildlife conservation principles contained in Bond (2003) or alternatively a combined HCP/NCCP be developed and implemented, before any ministerial permit are allowed in the winery corridor and before any agricultural conversions are permitted on land in sensitive areas.

6. The DEIR does not evaluate steelhead impacts from increased diversions from the Salinas River to prevent salt water intrusion and overdrifting and these impacts will be significant

The DEIR assumes that diversions from the Salinas River through the Salinas Valley Water Project (SVWP) will be increased from 9,700 AFY to 18,300 AFY in order to prevent salt water intrusion and over-drafting. Although this proposal is outlined conceptually as the “Expanded Distribution System” in the SVWP Draft EIS/EIR (MCWRA (2002)), that document does not evaluate the impacts from this increased level of diversions, particularly the impacts to steelhead. Therefore, the DEIR’s statement at p. 4.3-143 that “the impacts of the SVWP have been disclosed and mitigated with the adoption of the EIR/EIS prepared for that project” is not correct.

NOAA’s 2007 Final Biological Opinion for the SVWP assumes that only 9,700 AFY will be diverted and requires reinitiation of consultation if diversion is increased beyond this limit. NOAA (2007), pp. 8, 66. The flow prescription based on 9,700 AFY was intended to minimize project impacts and benefit steelhead. Increasing diversions to support the Expanded Distribution System would require that NOAA approve substantial changes to the river flow. This is not disclosed by the DEIR.

An extensive status review and biological assessment of South Central California Coast (SCCC) steelhead was performed as part of NOAA’s Biological Opinion for the SVWP. The opinion found that:

TRA ENVIRONMENTAL SCIENCES, INC.

84

85

O-11g

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 55*

1. The steelhead populations of the Salinas basin are significant in the survival of the SCCC steelhead distinct population segment (DPS) because: a.) They represent a large portion of the DPS's range, approx. 48% of both acreage and stream miles; b.) They inhabit an "inland" habitat which, along with the habitat of the Pajaro, is considered ecologically distinct within the DPS; and c.) They exhibit unique life history traits (page 36).
2. Most of the Salinas River is designated Critical Habitat for SCCC steelhead including: the Salinas River from the mouth to 7.5 miles below Santa Margarita Lake, Arroyo Seco River, Nacimiento and San Antonio Rivers (below the dam), and a number of upper Salinas tributaries (page 57).
3. Most of the critical habitat within the watershed is of diminished quality due to: inadequate flows, increased water temperature, degraded habitat, lack of access to suitable habitat and degraded lagoon rearing habitat. This degradation is believed responsible for the decline in steelhead abundance and viability (pages 57 and 58).
4. Steelhead breeding and rearing habitats in the Salinas River watershed include: Arroyo Seco, the downstream portions of Nacimiento and San Antonio River Dams, and portions of the upper watershed, with Arroyo Seco having the only population that is considered moderately or somewhat "viable" (population viability is defined by McElhany et al. (2000) as having the potential to persist into the future 100 years) (pages 25-26). These occupied spawning and/or rearing habitats comprise 19 percent of the DPS in term of miles, making the Salinas River the most occupied habitat in the DPS (page 37).
5. The primary threats to the Arroyo Seco steelhead population, in order of importance, are flow-related passage, barriers, and summer base flow (page 29).
6. The Arroyo Seco's risk of extinction is "fairly high" (page 64).

85

Given the importance of the Salinas River system to the overall ecological health of the SCCC steelhead DPS, and the relative importance of the Arroyo Seco habitat, increased diversions have the potential to significantly impact steelhead populations. The significance of the impact varies primarily by the location, timing, and volume of a diversion, and how the character of a given water year impacts that timing and volume.

Assuming additional diversions are taken from the present location of the inflatable rubber dam near Highway 1, timing and volume and how they vary by water year are the primary concern. Under the current diversion plan stipulated by the SVWP and the Section 7 Incidental Take Statement, winter flows are somewhat reduced because of increased storage at Nacimiento Dam while spring and summer flows are increased. Any plans to store additional winter volume, particularly in December and January, for spring/summer release would likely have a significant impact on adult migration to suitable breeding habitat.

Currently, the SVWP release plan permitted by NOAA calls for increased spring and summer flows. As large portions of the Salinas typically dry up during this time, increased flows present an opportunity for an expanded smolt emigration period. Smolt emigration (generally occurring between March and July) often limits steelhead

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 56*

production in "inland" systems, like the Salinas, that have hot, dry summers and dams that store any water that would typically trickle down from the upper watershed. Any change to the current dam flow rates during spring and summer would negate any improvements made to smolt outmigration and would be a significant impact.

85

7. The DEIR does not evaluate steelhead impacts from continued operation of Nacimiento and San Antonio Dams and these impacts will be significant

As noted, the DEIR assumes that groundwater will remain available in the Salinas Valley basin to support planned growth and states that groundwater pumping will not cause significant impacts from salt water intrusion or overdrafting. The DEIR relies on MCWRA's continued operation of the Nacimiento Dam and San Antonio Dam to maximize groundwater recharge in that basin. DEIR, pp. 4.3-5 to 4.3-6. However the DEIR does not evaluate the impacts to steelhead from the continued operation of these dams or reference any previous analysis of this.

We are aware of no such previous analysis of impacts from the continued operation of the two dams, e.g., a Biological Opinion from a consultation under the ESA. The NOAA Biological Opinion for the SVWP expressly disclaims any analysis of what it characterizes as the baseline operations of these dams. NOAA (2007), p. 2. If there is such an analysis or opinion, the DEIR should disclose this, summarize its findings, and explain whether it was based on assumptions consistent with the 2007 General Plan. If there has not been any form of analysis or compliance with the ESA's requirement that continued operations of these dams are subject to the requirement to obtain an Incidental Take Permit or Statement, then the DEIR should disclose this. In any event, the DEIR must provide an analysis of the effects of continuing operations.

86

We believe that continued operation of these dams will significantly impact steelhead migration and reproduction. Beyond the permanent loss of spawning and rearing habitat that dams create, the greatest impact of dam operations to steelhead is the lack of water for migration and emigration. The storage of flood flows during the winter months not only reduces the volume, and therefore the flow of water, but also the geomorphology of the habitat downstream of the dam.

By muting flood flows, dams minimize migration "signals" to adults awaiting migration at the river/ocean interface. Reduced flows exacerbate anthropogenic barriers to adult migration and to a lesser extent juvenile emigration by lowering the volume of water provided to overcome a barrier. Dam storage limits aquifer recharge during winter months, leading to an increase in dry stream days that can trap and isolate migrating adults, especially in the beginning of the rainy season when rain may entice fish to migrate but not produce enough water to maintain refuge habitat. By maximizing dam release for aquifer recharge throughout the summer and fall, large portions of streams often become dry before the smolt emigration season (typically March to July) ends, leading to the stranding of fish. In many cases, successive years of dry stream reaches caused by dam operations will lead to the formation of a resident population. Resident

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 57*

populations, although under the law are protected as naturally spawning steelhead, do not contribute to the overall genetic variability of a system.

By limiting flood flows, dams slowly and irrevocably change channel and substrate configuration. The muting of the highest peak flows creates smaller channels as vegetation once eroded by floods now flourishes. The number and size of boulders, cobbles, gravels and large woody debris is reduced. Channels become more shallow from the loss of erosive power that accompanies peak flood stage events, but also from the deposition of fine sediments that dams trap and release. Fine sediments also change the natural composition of river sediments, slowly displacing gravels and cobbles with sand and clay. Loss of complex stream habitat results in a loss of summer and winter steelhead refugia. Fine sediments clog interstitial spaces between gravels and cobbles, limiting oxygenation of steelhead egg and fry, but also severely altering the abundance and diversity of the invertebrate community, the juveniles steelheads main prey item.

8. The DEIR does not disclose the effects of sedimentation on steelhead and these impacts will be significant

As discussed above, the DEIR projects continued expansion in the cultivation of previously uncultivated land for agriculture, particularly for vineyard expansion. Most of this expansion will occur on sloped land at the edges of the Salinas Valley. The DEIR does not describe activities permitted by the 2007 General Plan that will cause erosion and sedimentation with any specificity, does not project actual erosion and sedimentation impacts, and does not propose any meaningfully substantive mitigation.

We believe that cumulative increases in sedimentation appear to be likely based on planned expansion of cultivation of previously uncultivated land and the absence of any substantive proposal for mitigation. For example, the DEIR postpones the evaluation and mitigation of cumulative sedimentation impacts, simply referencing Policy OS 3.9 that calls for a subsequent committee to develop a program. It is clear that increased sedimentation will adversely affect steelhead.

Any activities that require the moving or excavation of earth contributes to the sedimentation of natural environments, most notably creeks, streams, and rivers. Sediment is carried over impervious surfaces during rain events and then moved downstream by flood flows. The continued development of the Salinas River Valley will no doubt result in an increase in short-term, construction related sedimentation of aquatic habitats, but also in the creation of long-term sediment sources as previously undeveloped land is converted for agriculture and wineries. As noted above, there are thousands of acres of steeply sloped land that will be newly opened to development under the 2007 General Plan slope development policy. And, as noted, the EIR does not propose any substantive mitigation of the cumulative impacts of sedimentation from this development since Policy OS 3.9 defers this mitigation without any performance standards.

TRA ENVIRONMENTAL SCIENCES, INC.

86

86

O-11g

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 58*

Long-term sources of sediment are those that are of principal concern to fisheries biologists. Fine sediments are mobilized from fields during rain or irrigation events, settling into nearby ditches, creeks or streams. Large rain events further mobilize this sediment into main stream and river routes, where impacts to steelhead occur.

Fine sediments impact steelhead in a number of ways. Most notably, over the long term sediment fills in complex foraging and refugia habitat, reducing the complexity and therefore the productivity of steelhead habitat. Sediment reduces the interstitial spaces needed for invertebrate productivity, limiting the diversity and abundance of the steelhead's main prey item. Sediment also reduces oxygenation of steelhead eggs and alevin, potentially causing the substantial loss of young. Sediment suspended in the water column can cause complications with respiration, foraging, prey avoidance, and even mortality.

9. Cumulative impact analysis is inadequate and no mitigation is proposed

The DEIR's cumulative impact analysis consists of the recitation of a list of policies relevant to biological resources, recitation of the list of additional mitigation measures and a single paragraph of analysis:

"Together, these [policies and mitigation measures] would reduce the 2007 General Plan's contribution to cumulative impacts, but in some cases these impacts would still remain considerable. As development continues toward buildout, particularly development of existing lots of record, low-intensity development will cover larger expanses of the county's jurisdiction (federal lands such as Fort Hunter Liggett and Los Padres National Forest and state parks, which provide substantial areas of habitat within the county would not be affected). Similarly, expansion of the cities, which is outside the control of Monterey County, will impact habitats adjoining urban areas. Non-discretionary activities, such as the conversion of grassland to intensive agriculture, will also continue to contribute to the larger impact on these resources. Because the extent and species coverage of the future NCCP is unknown, there is a potential for cumulative impacts on special status species not covered by the NCCP. As a result, there would be a considerable contribution to cumulatively significant biological impacts." DEIR, p. 6-22.

The DEIR's apparent conclusion is that considerable contributions will be made to cumulatively significant impacts due to three causes: 1) sprawl caused by low-intensity development, particularly development of lots of record, 2) expansion of cities, and 3) non-discretionary activities, such as the conversion of grassland to intensive agriculture. Because the first and third causes are within the County's control, the County is obligated to propose all feasible mitigation to address the acknowledged cumulative impact. Despite this, the cumulative impact discussion does not even consider additional mitigation to address the acknowledged impacts.

TRA ENVIRONMENTAL SCIENCES, INC.

86

87

O-11g

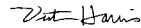
*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 59*

The EIR must propose mitigation measures that would address either the causes of these cumulative impacts or their effects. The County may bar or condition low-intensity development, including development of lots of record, where that development threatens to contribute to cumulative impacts. And there is simply no reason that the County must treat conversion of grassland to agriculture, or development on slopes, or construction of wineries, as non-discretionary activities, when such development contributes to cumulative impacts. If the County nonetheless intends to permit this activity without restriction or conditions, then it must adopt other mitigation to address its effects, including prompt implementation of an NCCP that will address the cumulative impacts.

87

If there are any questions regarding these comments, please do not hesitate to contact me at (650) 327-0429, ext. 82, or harris@traenviro.com.

Sincerely,



Victoria Harris
Program Director

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

*Comments on the DEIR for the 2007 Monterey General Plan
January 29, 2009
Page 60*

Exhibits:

Exhibit A: The Nature Conservancy, Intact Natural Vegetation Designated for Agriculture in Southern Monterey County, 2009

Exhibit B: The Nature Conservancy, Analysis of Slope and Vegetation by Planning Area for Land Permitting Agriculture Under the 2007 Monterey County General Plan

Exhibit C: The Nature Conservancy, Linkage Summary for the Central Coast, 2009

References:

<http://www.californiaoaks.org/ExtAssets/OakWdlandMitigationProg.pdf>

Monica Bond, Center for Biological Diversity, Principles of Wildlife Corridor Design, October 2003

CDFG Website (www.dfg.ca.gov), Natural Communities Conservation Planning.

Kim Nicholas Cahill, Stanford University, "Vineyard Development and Management in Coastal California: A Strategic Assessment of Threats to and Opportunities for Conservation", Prepared for The Nature Conservancy-California

California Wilderness Coalition, Missing Linkages: Restoring Connectivity to the California Landscape, 2001.

National Marine Fisheries Service, Southwest Region, Biological Opinion, SWR/2003/2080, June 21, 2007

The Nature Conservancy, California Central Coast Ecoregional Plan Update, October 2006.

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g

Exhibit A

The Nature Conservancy, Intact Natural Vegetation Designated for Agriculture in Southern Monterey County, 2009

Map provided in separate mailing

O-11g

Exhibit B

The Nature Conservancy, Analysis of Slope and
Vegetation by Planning Area for Land Permitting
Agriculture Under the 2007 Monterey County
General Plan, January 2009

O-11g

AREA_NAME_1	LAND_USE	Slope Class	Land Cover (from Cal Veg)	Acres
Cochigua	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	2
Cochigua	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	2
Cochigua	Resource Conservation	25 - 30% Slope	Converted Vegetation	1
Carmel Valley Master Plan	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	1
Carmel Valley Master Plan	Resource Conservation	25 - 30% Slope	Converted Vegetation	1
Carmel Valley Master Plan	Rural Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	0
Central Salinas Valley	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	158
Central Salinas Valley	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	51
Central Salinas Valley	Resource Conservation	25 - 30% Slope	Converted Vegetation	11
Central Salinas Valley	Rural Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	9
Greater Monterey Peninsula	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	5
Greater Monterey Peninsula	Resource Conservation	25 - 30% Slope	Converted Vegetation	6
Greater Salinas	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	11
Greater Salinas	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	2
Greater Salinas	Resource Conservation	25 - 30% Slope	Converted Vegetation	6
North County	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	16
North County	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	6
North County	Resource Conservation	25 - 30% Slope	Converted Vegetation	11
North County	Rural Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	4
South County	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	22
South County	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	85
South County	Resource Conservation	25 - 30% Slope	Converted Vegetation	28
South County	Rural Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	7
Toro	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	2
Toro	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Converted Vegetation	1
Toro	Resource Conservation	25 - 30% Slope	Converted Vegetation	14
Cochigua	Farmlands 40 - 160 Ac Min	GT 30% Slope	Converted Vegetation	1
Cochigua	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	67
Cochigua	Resource Conservation	GT 30% Slope	Converted Vegetation	2
Carmel Valley Master Plan	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	1
Carmel Valley Master Plan	Resource Conservation	GT 30% Slope	Converted Vegetation	5
Carmel Valley Master Plan	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	3
Central Salinas Valley	Farmlands 40 - 160 Ac Min	GT 30% Slope	Converted Vegetation	240

O-11g

AREA_NAME_1	LAND_USE	Slope Class	Land Cover (from CalVeg)	Acres
Central Salinas Valley	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	97
Central Salinas Valley	Resource Conservation	GT 30% Slope	Converted Vegetation	30
Central Salinas Valley	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	27
Fort Ord	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	0
Greater Monterey Peninsula	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	2
Greater Monterey Peninsula	Resource Conservation	GT 30% Slope	Converted Vegetation	33
Greater Salinas	Farmlands 40 - 160 Ac Min	GT 30% Slope	Converted Vegetation	11
Greater Salinas	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	12
Greater Salinas	Resource Conservation	GT 30% Slope	Converted Vegetation	8
North County	Farmlands 40 - 160 Ac Min	GT 30% Slope	Converted Vegetation	19
North County	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	15
North County	Resource Conservation	GT 30% Slope	Converted Vegetation	49
North County	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	0
North County LCP	Resource Conservation	GT 30% Slope	Converted Vegetation	0
South County	Farmlands 40 - 160 Ac Min	GT 30% Slope	Converted Vegetation	20
South County	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	128
South County	Resource Conservation	GT 30% Slope	Converted Vegetation	29
South County	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	20
Toro	Farmlands 40 - 160 Ac Min	GT 30% Slope	Converted Vegetation	2
Toro	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Converted Vegetation	1
Toro	Resource Conservation	GT 30% Slope	Converted Vegetation	18
Chicagosa	Farmlands 40 - 160 Ac Min	LT 25% Slope	Converted Vegetation	111
Chicagosa	Permanent Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	15
Chicagosa	Resource Conservation	LT 25% Slope	Converted Vegetation	5
Carmel LUP	Resource Conservation	LT 25% Slope	Converted Vegetation	0
Carmel Valley Master Plan	Permanent Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	20
Carmel Valley Master Plan	Resource Conservation	LT 25% Slope	Converted Vegetation	26
Carmel Valley Master Plan	Rural Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	3
Central Salinas Valley	Farmlands 40 - 160 Ac Min	LT 25% Slope	Converted Vegetation	137137
Central Salinas Valley	Permanent Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	2838
Central Salinas Valley	Resource Conservation	LT 25% Slope	Converted Vegetation	21
Central Salinas Valley	Rural Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	479
Coast-Non-Coastal	Resource Conservation	LT 25% Slope	Converted Vegetation	0

O-11g

AREA_NAME_1	LAND_USE	Slope Class	Land Cover (from CalVeg)	Acres
Fort Ord	Permanent Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	1
Fort Ord	Resource Conservation	LT 25% Slope	Converted Vegetation	0
Greater Monterey Peninsula	Farmlands 40 - 160 Ac Min	LT 25% Slope	Converted Vegetation	301
Greater Monterey Peninsula	Permanent Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	389
Greater Monterey Peninsula	Resource Conservation	LT 25% Slope	Converted Vegetation	75
Greater Salinas	Farmlands 40 - 160 Ac Min	LT 25% Slope	Converted Vegetation	46185
Greater Salinas	Permanent Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	185
Greater Salinas	Resource Conservation	LT 25% Slope	Converted Vegetation	518
North County	Farmlands 40 - 160 Ac Min	LT 25% Slope	Converted Vegetation	7257
North County	Permanent Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	272
North County	Resource Conservation	LT 25% Slope	Converted Vegetation	157
North County	Rural Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	33
North County LCP	Farmlands 40 - 160 Ac Min	LT 25% Slope	Converted Vegetation	0
North County LCP	Resource Conservation	LT 25% Slope	Converted Vegetation	0
South County	Farmlands 40 - 160 Ac Min	LT 25% Slope	Converted Vegetation	15944
South County	Permanent Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	2588
South County	Resource Conservation	LT 25% Slope	Converted Vegetation	112
South County	Rural Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	79
Toro	Farmlands 40 - 160 Ac Min	LT 25% Slope	Converted Vegetation	4795
Toro	Permanent Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	147
Toro	Resource Conservation	LT 25% Slope	Converted Vegetation	137
Toro	Rural Grazing 10 - 160 Ac Min	LT 25% Slope	Converted Vegetation	0
Chicagosa	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Impact Natural Vegetation	35
Chicagosa	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Impact Natural Vegetation	7077
Chicagosa	Resource Conservation	25 - 30% Slope	Impact Natural Vegetation	1866
Chicagosa	Rural Grazing 10 - 160 Ac Min	25 - 30% Slope	Impact Natural Vegetation	125
Carmel LUP	Resource Conservation	25 - 30% Slope	Impact Natural Vegetation	0
Carmel Valley Master Plan	Rural Grazing 10 - 160 Ac Min	25 - 30% Slope	Impact Natural Vegetation	0
Carmel Valley Master Plan	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Impact Natural Vegetation	25
Carmel Valley Master Plan	Resource Conservation	25 - 30% Slope	Impact Natural Vegetation	364
Central Salinas Valley	Rural Grazing 10 - 160 Ac Min	25 - 30% Slope	Impact Natural Vegetation	307
Central Salinas Valley	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Impact Natural Vegetation	2685
Central Salinas Valley	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Impact Natural Vegetation	23075

C-11g

AREA_NAME_1	LAND_USE	Slope Class	Undr Cover (from CalVeg)	Acres
Central Salinas Valley	Resource Conservation	25 - 30% Slope	Inspect Natural Vegetation	4612
Central Salinas Valley	Rural Grazing 10 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	1031
Coast-Non-Coastal	Resource Conservation	25 - 30% Slope	Inspect Natural Vegetation	434
Coast-Non-Coastal	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	0
Coast-Non-Coastal	Resource Conservation	25 - 30% Slope	Inspect Natural Vegetation	0
Coast-Non-Coastal	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	0
Fort Ord	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	3
Fort Ord	Resource Conservation	25 - 30% Slope	Inspect Natural Vegetation	710
Greater Monterey Peninsula	Resource Conservation	25 - 30% Slope	Inspect Natural Vegetation	2657
Greater Monterey Peninsula	Rural Grazing 10 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	22
Greater Monterey Peninsula	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	120
Greater Salinas	Resource Conservation	25 - 30% Slope	Inspect Natural Vegetation	3426
Greater Salinas	Resource Conservation	25 - 30% Slope	Inspect Natural Vegetation	641
North County	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	14
North County	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	737
North County	Resource Conservation	25 - 30% Slope	Inspect Natural Vegetation	117
North County	Rural Grazing 10 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	117
South County	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	2681
South County	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	48472
South County	Resource Conservation	25 - 30% Slope	Inspect Natural Vegetation	4796
South County	Resource Conservation	25 - 30% Slope	Inspect Natural Vegetation	4085
Toro	Farmlands 40 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	85
Toro	Permanent Grazing 10 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	1816
Toro	Resource Conservation	25 - 30% Slope	Inspect Natural Vegetation	1003
Toro	Rural Grazing 10 - 160 Ac Min	25 - 30% Slope	Inspect Natural Vegetation	37
Chughaga	Farmlands 40 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	51
Chughaga	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	28982
Chughaga	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	10418
Chughaga	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	450
Carmel LUP	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	0
Carmel Valley Master Plan	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	241
Carmel Valley Master Plan	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	1321

C-11g

AREA_NAME_1	LAND_USE	Slope Class	Undr Cover (from CalVeg)	Acres
Carmel Valley Master Plan	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	1171
Central Salinas Valley	Farmlands 40 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	8770
Central Salinas Valley	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	93314
Central Salinas Valley	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	23097
Central Salinas Valley	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	4248
Coast-Non-Coastal	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	2481
Coast-Non-Coastal	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	0
Coast-Non-Coastal	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	0
Coast-Non-Coastal	Farmlands 40 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	0
Fort Ord	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	2
Fort Ord	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	4630
Greater Monterey Peninsula	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	14456
Greater Monterey Peninsula	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	313
Greater Salinas	Farmlands 40 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	404
Greater Salinas	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	14596
Greater Salinas	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	4597
North County	Farmlands 40 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	29
North County	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	1294
North County	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	127
North County	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	120
South County	Farmlands 40 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	4620
South County	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	119583
South County	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	19069
South County	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	5862
Toro	Farmlands 40 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	159
Toro	Permanent Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	10409
Toro	Resource Conservation	GT 30% Slope	Inspect Natural Vegetation	3469
Toro	Rural Grazing 10 - 160 Ac Min	GT 30% Slope	Inspect Natural Vegetation	56
Chughaga	Farmlands 40 - 160 Ac Min	LT 25% Slope	Inspect Natural Vegetation	578
Chughaga	Permanent Grazing 10 - 160 Ac Min	LT 25% Slope	Inspect Natural Vegetation	21357
Chughaga	Resource Conservation	LT 25% Slope	Inspect Natural Vegetation	5083
Chughaga	Rural Grazing 10 - 160 Ac Min	LT 25% Slope	Inspect Natural Vegetation	672
Carmel LUP	Resource Conservation	LT 25% Slope	Inspect Natural Vegetation	0

O-11g

AREA_NAME_1	LAND_USE	Slope Class	Land Cover (from CalVeg)	Acres
Carmel LUP	Rural Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	0
Carmel Valley Master Plan	Permanent Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	85
Carmel Valley Master Plan	Resource Conservation	U1 25% Slope	Impact Natural Vegetation	872
Carmel Valley Master Plan	Rural Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	1399
Central Salinas Valley	Farmlands 40 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	40194
Central Salinas Valley	Permanent Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	114713
Central Salinas Valley	Resource Conservation	U1 25% Slope	Impact Natural Vegetation	15437
Central Salinas Valley	Rural Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	3742
Coast Non-Coastal	Permanent Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	0
Coast Non-Coastal	Resource Conservation	U1 25% Slope	Impact Natural Vegetation	1595
Coast-Big Sur	Permanent Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	0
Coast-Big Sur	Resource Conservation	U1 25% Slope	Impact Natural Vegetation	0
Coast-Big Sur	Rural Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	4
Fort Ord	Permanent Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	0
Fort Ord	Resource Conservation	U1 25% Slope	Impact Natural Vegetation	0
Greater Monterey Peninsula	Farmlands 40 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	84
Greater Monterey Peninsula	Permanent Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	3142
Greater Monterey Peninsula	Resource Conservation	U1 25% Slope	Impact Natural Vegetation	8575
Greater Monterey Peninsula	Rural Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	72
Greater Salinas	Farmlands 40 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	4809
Greater Salinas	Permanent Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	10710
Greater Salinas	Resource Conservation	U1 25% Slope	Impact Natural Vegetation	1130
North County	Farmlands 40 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	465
North County	Permanent Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	5061
North County	Resource Conservation	U1 25% Slope	Impact Natural Vegetation	2303
North County	Rural Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	687
North County LCP	Farmlands 40 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	0
North County LCP	Permanent Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	0
North County LCP	Resource Conservation	U1 25% Slope	Impact Natural Vegetation	0
North County LCP	Rural Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	0
South County	Farmlands 40 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	6714
South County	Permanent Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	27070
South County	Resource Conservation	U1 25% Slope	Impact Natural Vegetation	15576

O-11g

AREA_NAME_1	LAND_USE	Slope Class	Land Cover (from CalVeg)	Acres
South County	Rural Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	33295
Toro	Farmlands 40 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	2469
Toro	Permanent Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	5000
Toro	Resource Conservation	U1 25% Slope	Impact Natural Vegetation	3561
Toro	Rural Grazing 10 - 160 Ac Min	U1 25% Slope	Impact Natural Vegetation	229
TOTALS				
All Planning Areas	All land uses permitting agriculture	U1 25% Slope	Impact Natural Vegetation	64071
All Planning Areas	All land uses permitting agriculture	U1 25% Slope	Impact Natural Vegetation	115678
All Planning Areas	All land uses permitting agriculture	U1 25% Slope	Impact Natural Vegetation	342753
All Planning Areas	All land uses permitting agriculture	U1 25% Slope	Impact Natural Vegetation	654432
Cchebaugh, CSW, Toro, South County	All land uses permitting agriculture	U1 25% Slope	Impact Natural Vegetation	599964
Cchebaugh, CSW, Toro, South County	All land uses permitting agriculture	U1 25% Slope	Impact Natural Vegetation	109864
Cchebaugh, CSW, Toro, South County	All land uses permitting agriculture	U1 25% Slope	Impact Natural Vegetation	337171
Cchebaugh, CSW, Toro, South County	All land uses permitting agriculture	All Slopes	Impact Natural Vegetation	1041138

O-11g

Exhibit C

The Nature Conservancy, Linkage Summary for the Central Coast, 2009

O-11g

The table provides data sources and descriptions for the linkage mapped on TNC Insect Museum Vegetation Designated for Agriculture in Southern Monterey County, 2009

U.D.	SOURCE/DOC	AUTHOR	DATE	SCALE	NAME	NOTE
323	Monterey County Project Operations Plan	TNC	1/1/2009	None	Hwy 68 western crossing	One of only two visible wildlife crossings across Highway 68 between the Santa Lucia Range and Ft. Ord. One identified by TNC and BLM as part of Highway 68 project.
324	Monterey County Project Operations Plan	TNC	1/1/2009	Course	Eastern Salinas Valley foothills	Low foothills along the eastern edge of the Salinas Valley provide critical north-south connectivity, as well as east-west connections from Salinas Valley to the interior Diablo Range. Wetland areas are spreading in this important area.
325	Monterey County Project Operations Plan	TNC	1/1/2009	Course	Santa Cruz Mtn-Gabilan Range	Locally important regional corridor to link major ranges.
326	Monterey County Project Operations Plan	TNC	1/1/2009	None	Serra de Salinas-Salinas River	Identified by TNC (Monterey Project). One of only areas where undeveloped benches that hold high quality river and riparian habitats on the west side of the valley.
327	Monterey County Project Operations Plan	TNC	1/1/2009	Course	Salinas Valley floor	non-specific corridor - depends on need to maintain permeability through agricultural lands to wildlife can move between valleys, floodplains and adjacent foothills.
328	Monterey County Project Operations Plan	TNC	1/1/2009	None	Gabilan Creek - Access Hills	Links northern Gabilan Range to Santa Cruz Range via hills around Pinedale and Altonia.
329	Monterey County Project Operations Plan	TNC	1/1/2009	Course	Salinas Valley - Pacheco Valley	This corridor is permeable in location and is needed to maintain wildlife movement east-west between the Salinas Valley and interior Diablo Range through the San Lorenzo River watershed in the vicinity of lower Pacheco Valley.
330	Monterey County Project Operations Plan	TNC	1/1/2009	Course	Salinas Valley - San Lorenzo Creek	This corridor is permeable in location and is needed to maintain wildlife movement east-west between the Salinas Valley and interior Diablo Range through the San Lorenzo River watershed south of the Salinas Valley-Pacheco Valley corridor.
331	Monterey County Project Operations Plan	TNC	1/1/2009	Course	Camp Roberts - Ft. Hunter Light	Located between the reservoir and John Hills, this series of low ridges and valleys needs to be maintained to facilitate movement of wildlife between Camp Roberts and Ft. Hunter Light.
332	Monterey County Project Operations Plan	TNC	8/17/2006	Course	Parish - Cottonwood Pass	Links riparian area of private ownership in high quality, unprotected habitat in the interior Diablo Range.
333	Monterey County Project Operations Plan	TNC	1/1/2009	None	Serra de Salinas-Toro Peak	Area of unprotected land between Arroyo Seco and parklands to the north.
334	Monterey County Project Operations Plan	TNC	1/1/2009	None	Southern Sierra de Salinas - Salinas River	Area of unprotected land between Arroyo Seco and parklands to the north. This area is the region where wildlife can move through natural habitat between the Salinas River and southern Sierra de Salinas.

O-11g

UID	SOURCE/DOC	AUTHOR	DATE	SCALE	NAME	Notes
354-CC	Ecoregional Assessment 2006	TWC	6/17/2006	1:60	Serra de Salinas - Arroyo Seco	
357	Monterey County Project Operations Plan	TWC	1/4/2002	1:60	Arroyo Seco - Salinas River Shingle	Very meadowy corridor as well as wildlife corridor between Salinas River and Santa Lucia Range. Needs restoration across valley floor.
358-CC	Ecoregional Assessment 2006	TWC	6/17/2006	Coarse	Camp Roberts - Soledad Mts.	Road use is providing critical permeability between the southern Salinas Valley and the site on in an area of large ranches. Broadly defined corridor to fill major ranges, overlap with 305,309, 309 which are located along different elevations but have same purpose identified by local experts; one of only connections between northern Salinas Valley and southern Salinas Valley. Important north-south connection via linkage connecting the northern Santa Lucia Range to the Salinas River northward.
363-CVC	Central Coast Assessment	CVC	6/17/2002	Coarse	Santa Cruz Mtn-Gabilan Range	narrow yet essential corridor between localized woodcover fields along Highway 68 to preserve at least a set of its both in along Tule Creek.
374-CC	Ecoregional Assessment 2006	TWC	1/20/2006	1:60	Tombahle Slough	Important riparian connectivity between Salinas River and southern Gabilans and San Benito River Valley. Includes Toro Creek.
375-Innv-CC	Corridor Assessment 2005	TWC	4/21/2005	1:60	Toro Peak foothills-Salinas River	Area along Salinas River where river floodplain has unobstructed connections to foothills of southern Gabilan Range providing regional connectivity.
377-CC	Ecoregional Assessment 2006	TWC	6/17/2006	Coarse	Salinas River - Chualar Creek	
378-CC	Ecoregional Assessment 2006	TWC	6/17/2006	Coarse	Salinas River - Pinnacles East Mtn.	

O-11g

UID	SOURCE/DOC	AUTHOR	DATE	SCALE	NAME	TYPE	KEY_SPP	HABITAT
305	Missing Linkages: Restoring Co-connectivity CVC - South Coast Willards Project	CVC - South Coast Willards Project	11/7/2000	Coarse	Santa Cruz Mtn-Mt. Hamilton	Landscape Linkage: Choke point	mountain lion, medium sized catamount	Mixed coniferous oak woodland, serpentine grassland, chaparral, redwood
307	Missing Linkages: Restoring Co-connectivity CVC - South Coast Willards Project	CVC - South Coast Willards Project	11/7/2000	Coarse	Santa Lucia - Gabilan, Ventana Wilderness	Choke point	mountain lion	grassland, scrub and oak woodlands
308	Missing Linkages: Restoring Co-connectivity CVC - South Coast Willards Project	CVC - South Coast Willards Project	11/7/2000	Coarse	Fert Ord - Ventana	Missing Link	coyote, bear, bobcat, mountain lion	maritime chaparral, grassland, oak woodlands
309	Missing Linkages: Restoring Co-connectivity CVC - South Coast Willards Project	CVC - South Coast Willards Project	11/7/2000	Coarse	Los Padres - Hearst Quiste	Landscape Linkage	mountain lion, bear, spotted owl, red-legged frog	oak woodlands/savanna, riparian, coast grasslands
311	Missing Linkages: Restoring Co-connectivity CVC - South Coast Willards Project	CVC - South Coast Willards Project	11/7/2000	Coarse	S. Diablo - Carrizo	Landscape Linkage	large mammal, mountain lion, kit fox	oak woodland, grassland, riparian, Diablen scrub
315	Missing Linkages: Restoring Co-connectivity CVC - South Coast Willards Project	CVC - South Coast Willards Project	11/7/2000	Coarse	Camp Roberts	Choke point	kit fox, tule elk	grassland, oak woodlands
316	Missing Linkages: Restoring Co-connectivity CVC - South Coast Willards Project	CVC - South Coast Willards Project	11/7/2000	Coarse	Salinas River - Robina Corridor	Landscape Linkage	riparian birds, neotropical migrants, steelhead, kit fox	riparian, grasslands
319	Missing Linkages: Restoring Co-connectivity CVC - South Coast Willards Project	CVC - South Coast Willards Project	11/7/2000	Coarse	Lower N. Salinas River	Landscape Linkage	neotropical migrants, steelhead, large & small mammals	valley riparian forest, woodlands, and scrub
81	Missing Linkages: Restoring Co-connectivity CVC - South Coast Willards Project	CVC - South Coast Willards Project	11/7/2000	Coarse	Santa Cruz Mtn-Gabilan Range			
97	Missing Linkages: Restoring Co-connectivity CVC - South Coast Willards Project	CVC - South Coast Willards Project	11/7/2000	Coarse	Pajaro River			

O-11g

L_ID	LAND_COVER	OTHER_OWNER	BARRIERS	FEATURES	RSCH_MED	DOCUMENTS	COMMENTS
305	Natural Vegetation, Agriculture	Surgent, Castro Valley Ranch	roads, gaps in habitat cover	riparian habitat, underpasses	document use of linkage, design, evaluate, purchase		evaluate underpass/overpass movement
307	Natural Vegetation, Agriculture, Residential		Hwy 202, gaps in habitat cover, sand/gravel operations		document use of linkage, design, evaluate, purchase	Steinhead documents	design successful under/overpass
308	Natural Vegetation, Agriculture, Residential	UC Hastings Research Reserve, CSUMB	roads, gaps in habitat cover	possibly bridges over Salinas	document use of linkage, design safe road crossings	BLM, CSUMB	presence of local species north & south of corridor
309	Natural Vegetation, Agriculture	Hes 14 Corporation, Starr Parts	Hwy 41, Hwy 46	contiguous habitat, riparian habitat	document use of linkage		
311	Natural Vegetation	ranches, TNC	none but potential for fragmentation high	contiguous habitat, riparian habitat	land ownership, identification of large, connected ranches	intercept, USFWS recovery plans	core area that links existing public lands
315	Natural Vegetation, Agriculture	address overgrazing issues	roads, minor gaps in habitat cover	contiguous habitat	document use of linkage, design, evaluate, purchase	set for point occurrence	
316	Natural Vegetation	murry	Hwy 202, railroad crossing, small towns	broad, undeveloped flood plain	land ownership patterns, design linkages	reserve design with Packard grants	
318	Natural Veg, Rural Residential, Agriculture	AG interests, public agencies at former Fort Ord	insufficient flow, diam, gaps in cover	contiguous riparian habitat, bridges	document use by neotropical migrants, evaluate restoring steelhead run	Robertson et al. 1995, RHJV 2000, Tite et al. 1999	Connects the Santa Lucia and Diablo Ranges via the Salinas River

O-11g

545 Middlefield Road, Suite 200
Menlo Park, CA 94025-3472
Tel: (650) 327-0429
Fax: (650) 327-4024
www.TRAenviro.com



Experience and Qualifications for Biological Assessments and Conservation Planning

January 2009



Conservation Planning and Implementation ◊ Environmental Impact Analysis
Geographic Information Systems ◊ Wetland Delineation ◊ Biological Surveys

TRA ENVIRONMENTAL SCIENCES, INC.

QUALIFICATIONS SUMMARY

Established in 1972, TRA Environmental Sciences, Inc. (TRA) is a full-service environmental consulting firm specializing in environmental impact analysis and conservation planning. The firm has a wide range of in-house expertise and has prepared environmental documents on a variety of projects including recreational developments, trails, schools, subdivisions, quarries, landfills, wastewater treatment plants, and General, Specific, and Master Plans. TRA also prepares specialty analyses such as endangered species habitat conservation programs, constraints analyses, biological assessments, peer review of other environmental reports, mitigation monitoring, and computer-generated visual studies.

TRA Environmental Sciences, Inc. has a highly professional staff that works closely on each job. We consistently deliver large amounts of work, on time and at a reasonable cost. We have 34 years of experience in environmental review of complex and controversial projects, and have provided the highest level of support to lead agencies in public representation throughout the environmental review process. The senior staff has at least 17 years of experience in the field, and most have been with the firm for 15 years or more. When supplemental expertise is needed, we use a network of subcontractors that we have collaborated with over the years in various disciplines, such as traffic, air quality, cultural resources, geology, hydrology, bioengineering, fluvial geomorphology, and socioeconomics.

Our Areas of Expertise:

Biological Assessment and Wetland Delineation. TRA Environmental Sciences, Inc. prepares specialty analyses such as biological surveys and assessments, wetland delineations, endangered species habitat conservation plans, and constraints analyses.

The firm has authored or had major participation in more than 10 habitat conservation plans for endangered species in California and elsewhere, as well as the Southern California Coastal Sage Scrub NCCP and the Placer Legacy conservation project, which are regional programs. The firm also does many smaller scale biological assessments. This work is supported by mapping through the use of the firm's GIS and AutoCAD capabilities, which play a role in many of the firm's projects.

TRA has conducted many site specific biological assessments, special status species surveys, and impact studies throughout the greater Bay Area. These biological inventories often require specific knowledge of the California red-legged frog (CRLF), San Francisco garter snake, steelhead and several rare plants that occur on the coastside, in the Santa Cruz Mountains, or in creeks and tidal marshes in the Bay Area.

TRA ENVIRONMENTAL SCIENCES, INC.

TRA has experience in the surveillance and identification of the following special status animals:

Common Name

Invertebrates

San Bruno elfin butterfly
Mission blue butterfly
Callippe silverspot butterfly
Bay checkerspot butterfly
Smith's blue butterfly

Vertebrates

Steelhead
California red-legged frog
California tiger salamander
San Francisco garter snake
Long-eared owl
Northern spotted owl
Burrowing owl
Least Bell's vireo
Willow flycatcher
San Joaquin kit fox
San Francisco dusky-footed woodrat

TRA has also completed habitat surveys for species such as the California least tern, California clapper rail, snowy plover, salt marsh harvest mouse, and various bat species in the San Francisco bay area.

TRA staff is experienced in conducting project-specific surveys following US Fish and Wildlife Service (USFWS) and CA Department of Fish and Game (CDFG) protocols for CRLF, California tiger salamander, burrowing owl, San Joaquin kit fox, and rare listed and protected plants. TRA also has experience conducting pre-construction surveys for nesting raptors, burrowing owls, and other species. When federally listed species are identified, TRA staff is also able to assist clients with USFWS Section 7 and Section 10a (HCP) permits.

TRA biologists are experienced in conducting surveys for special status plant species, especially in San Mateo County. TRA biologists are familiar with sensitive plant species within coastal prairie, coastal salt marsh, central coast riparian scrub, chaparral, deciduous and evergreen woodlands, and serpentine grassland communities. TRA annually monitors rare plants on San Bruno Mountain as part of the habitat management component of the San Bruno Mountain Habitat Conservation Plan. TRA staff is familiar with the taxonomy of the local flora and are experienced with local botanical references, as well as the Jepson Manual.

TRA has past experience conducting surveys for the following special status plant species (listed alphabetically by scientific name):

TRA ENVIRONMENTAL SCIENCES, INC.

Common Name	Scientific Name
San Mateo thornmint	<i>Acanthomintha duttonii</i>
Franciscan onion	<i>Allium peninsulare</i> var. <i>franciscanum</i>
Coast rock cress	<i>Arabis blepharophylla</i>
San Bruno Mountain manzanita	<i>Arctostaphylos imbricata imbricata</i>
Montara manzanita	<i>Arctostaphylos montarensis</i>
Alkali milk-vetch	<i>Astragalus tener</i> var. <i>tener</i>
Coastal bluff morning glory	<i>Calystegia purpurata</i> ssp. <i>saxicola</i>
San Francisco bay spineflower	<i>Chorizanthe cuspidata cuspidata</i>
Mt. Hamilton thistle	<i>Cirsium fontinale campylon</i>
Fountain thistle	<i>Cirsium fontinale fontinale</i>
Western leatherwood	<i>Dryca occidentalis</i>
Santa Clara Valley dudleya	<i>Dudleya setchellii</i>
San Mateo wooly sunflower	<i>Eriophyllum latilobum</i>
San Francisco wallflower	<i>Erysimum franciscanum</i>
Fragrant fritillary	<i>Fritillaria liliacea</i>
Hillsborough chocolate lily	<i>Fritillaria biflora</i> var. <i>ineziana</i>
San Francisco gumplant	<i>Grindelia maritima</i>
Marsh gumplant	<i>Grindelia stricta angustifolia</i>
Diablo helianthella	<i>Helianthella castanea</i>
Congdon's tarplant	<i>Hemizonia parryi congdonii</i>
Crystal Springs lessingia	<i>Lessingia arachnoidea</i>
San Francisco lessingia	<i>Lessingia germanorum</i>
San Mateo tree lupine	<i>Lupinus eximius</i>
Dudley's lousewort	<i>Pedicularis dudleyi</i>
White-rayed pentachaeta	<i>Pentachaeta bellidiflora</i>
Hickman's cinquefoil	<i>Potentilla hickmanii</i>
San Francisco campion	<i>Silene verucunda verucunda</i>
Most beautiful jewel-flower	<i>Streptanthus albidus peramoenus</i>

TRA has developed hands-on expertise in revegetation and habitat restoration. Much of past restoration work has been in concert with efforts to preserve an endangered or threatened plant or animal species. TRA understands the complexities of developing a revegetation or restoration plan in a regulatory framework, as well as the complexities of implementing the plan in the field.

TRA is familiar with the range of revegetation and habitat restoration techniques. These include biological surveys, soil tests, methods of controlling or removing unwanted weedy species, collecting and preparing seed of desired species, providing an adequate substrate to grow desired species, applying seed or planting container plants, and monitoring the results.

TRA has extensive experience in implementing vegetation management and herbicide application programs. Exotic species control activities began in 1985 as part of TRA's long-term contract as Habitat Manager carrying out the activities of the San Bruno Mountain Habitat Conservation Plan. To re-establish and conserve habitat areas of protected butterfly species, TRA began herbicide spraying and mechanical removal of invasive plant species that were progressively encroaching on native habitat areas.

At the intersection of botanical services and aquatic resources, TRA staff can conduct wetland delineations to determine whether specific wetlands are covered under the jurisdiction of the U.S. Army Corps of Engineers, California Regional Water Quality Control Board, California and Local Coastal plans, or other regulatory agency jurisdiction. Our biologists are trained in the U.S. Army Corps of Engineers (USACE) routine method of wetland delineation, and have

TRA ENVIRONMENTAL SCIENCES, INC.

conducted several wetland delineations in San Mateo County. TRA can assist clients with obtaining nation-wide permits from the USACE, Streambed Alteration Agreements with CDFG, and other necessary permits.

Several staff members at TRA are trained wetland delineators and have experience on several wetland delineation projects. We are familiar with the federal unified method, with the approach used by the California Coastal Commission in coastal areas of California, and with approaches identified in Local Coastal Programs. Project sizes range from square feet (San Juan Highway Bike Lane) to hundreds of acres (Kirby Canyon Landfill; Sand Creek Specific Plan).

TRA regularly completes biological assessments, most of which occur within a 50-mile radius of our Menlo Park office. Staff is familiar with all of the research methods and databases that the resource agencies expect to see in biological site assessments. These methods and databases include the California Natural Diversity Database, the Wildlife Habitat Relationships Database, the Manual of California Vegetation, state and federal survey protocols, California Native Plant Society protocols, and standard field guides and floras. We have expertise in assessing the potential occurrence of several sensitive species including, but not limited to: California red-legged frog, California tiger salamander, numerous butterfly species, birds such as Western burrowing owl, and mammals such as San Joaquin kit fox, dusky-footed wood rat, and bats.

Open Space and Recreation Plans. TRA Environmental Sciences, Inc. has completed a variety of tasks on different types of recreational projects including parks, trails, a marine reserve, open space district land acquisition, bike lanes, off-highway vehicle use, a hot springs resort and golf courses. We have done both formal and informal environmental review of master plans on trails and parks. On several master plan projects TRA has been hired early on in the process in order to identify the environmental impacts the master plan could be causing, and to make recommendations on how to avoid significant impacts.

Our project experience is primarily in the San Francisco Bay Area and on the central coast of California. Project settings range from urban to rural. Our clients have included cities, counties, water districts, and open space district planners, as well as private industry and professional master planning consultants.

Habitat Conservation Planning. TRA specializes in habitat conservation planning. The firm has authored or had major participation in dozens of habitat conservation plans for endangered species in California and elsewhere, including the regional programs: the Southern California Coastal Sage Scrub NCCP and the Placer Legacy conservation project. TRA prepared the first Habitat Conservation Plan completed under the Endangered Species Act, the San Bruno Mountain HCP. In addition, the firm continues to assist San Mateo County with the implementation of the San Bruno Mountain HCP since its approval in the early 1980's.

Mitigation Monitoring. The California Environmental Quality Act currently requires that mitigation monitoring plans be prepared prior to project approval. TRA has prepared several mitigation monitoring plans on several different types of projects. These plans specify mitigation measures, responsible parties, and in order to demonstrate that mitigation proposed during environmental review is actually implemented, expected work products are identified.

TRA also has experience in monitoring mitigation activities including operational compliance at quarries, restoration work at housing and public facility developments, and sensitive plant and animal species monitoring in a variety of habitats.

TRA ENVIRONMENTAL SCIENCES, INC.

California Environmental Quality Act (CEQA)/National Environmental Policy Act (NEPA). TRA was founded to prepare environmental documents during the early years of NEPA and CEQA and has remained in step with the evolution of the guidelines for environmental review of projects. We keep apprised of statutory and regulatory changes through journals, annual publications, conferences, and the California Office of Planning and Research (OPR) web site and other law websites.

TRA Environmental Sciences, Inc. has prepared all types of CEQA and NEPA documents, including environmental impact reports (EIR), environmental impact statements (EIS), combined EIR/EIS, environmental assessments (EA) combined EIR/EA, Biological Assessments (BA), Initial Studies (IS), Initial Study/Mitigated Negative Declarations (IS/MND), and Categorical Exemptions. We have also completed environmental review of several types of documents prepared by other firms or agencies.

Part of our conservation planning work entails preparing maps using GIS and AutoCAD. These capabilities have played a major role in many of the firm's recent projects. The maps have proven to be an important tool for describing conservation options and discussing these options with the landowners and the agencies that are involved.

When needed, TRA works with a network of subcontractors with special expertise in particular endangered species. Such individuals are selected based on their demonstrated ability and knowledge with particular species. Many have permits from the U.S. Fish and Wildlife Service to handle relevant listed species. The number of these permits is very limited, so if the species must be handled in order to do a survey, an individual or firm with the required permit must be used in the study.

TRA ENVIRONMENTAL SCIENCES, INC.

RECENT BIOLOGICAL ASSESSMENTS AND MITIGATION MONITORING

Revised Management and Remediation Plan for a Wetland Ecosystem Restoration Site, Pacifica, California, 2006

A Management and Restoration Plan for the Pacifica Police Station site was prepared in 2001 by L.C. Lee & Associates, Inc. TRA, at that time, had performed the initial biological assessment. In 2006, TRA was contracted to update the management and restoration plans for the five-year-old police station. This current Remediation Plan presents relevant portions of the 2001 Management Plan and contains remediation measures that further address regulatory issues at the site's riverine waters/wetlands ecosystem on Calera Creek, east of Highway 1 in Pacifica.

Lead Agency/Client: City of Pacifica

Biological Constraints Assessment, Lake Road Property, San Mateo County, 2006

In order to determine biological constraints on management activities performed by the water district, surveys were conducted to document vegetation, habitat types and functions, and wildlife observed or suspected to be present on the property. This report documented all sensitive species present and discussed sensitive species with the potential of using the site.

Lead Agency/Client: Los Trancos County Water District Board of Directors

California Red-legged Frog Surveys: Calero Dam, Almaden Dam and Guadalupe Dam Santa Clara County, California, 2006

California red-legged frog (*Rana aurora draytonii*) surveys were completed within wetland areas below Almaden, Calero, and Guadalupe Dams in Santa Clara County to meet the mitigation requirements included in the Initial Study/Mitigated Negative Declaration (IS/MND) for the Santa Clara Valley Water District Dam Instrumentation Project: Phase IB and II. Surveys were completed following USFWS Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog (August 2005).

Lead Agency/Client: Santa Clara Valley Water District

Calera Creek Wetland and Riparian Ecosystem Restoration Site Compliance Monitoring Pacifica, San Mateo County, 2005 – Present

TRA performed compliance monitoring for the Calera Creek Wetland and Riparian Ecosystem Restoration Site in December of 2005 to satisfy Year 4 monitoring requirements as defined in the *Draft Final Monitoring Plan for the Restoration of Lower Calera Creek and Adjacent Wetlands: Pacifica Wastewater Treatment Plant* (L.C. Lee & Associates 1996). TRA completed vegetation monitoring, which included sampling fifteen, 10-foot wide belt transects running perpendicular to the channel. Measurements were taken of vegetation within the bankfull width of the channel. Within each transect, data collected include: (1) species present and percent cover of each, (2) canopy cover, (3) total vegetation cover, (4) percent cover of bare ground, (5) percent cover of litter, (6) percent cover of herbaceous vegetation, and (7) overall vegetation vigor and survival. TRA also compiled recent wildlife sightings and recorded wildlife observations and evidence of faunal use of the restoration area in order to evaluate the overall health and function of the ecosystem. Additionally, Balance Hydrologics completed the assessment of channel 'bankfull' geometry characteristics, evaluated overall geomorphic stability of the system, and analyzed water quality. TRA combined their findings with Balance Hydrologics in order to prepare the Year 4 Monitoring Report for the U.S. Army Corps of Engineers, U. S. Fish and Wildlife Service, California Coastal Commission, and the San Francisco Bay Regional Water Quality Control Board.

Lead Agency/Client: City of Pacifica

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g Page 8

**Phragmites Removal Project, Baylands Nature Preserve
Palo Alto, Santa Clara County, 2005-2006**

The City of Palo Alto proposed the removal of non-native *Phragmites australis* from the floodbasin within the Baylands Nature Preserve. Due to the project setting within wetland habitat and the potential for special-status species including the federally endangered Salt marsh harvest mouse, environmental review of the project was required. TRA examined the project goals and site conditions, consulted with the U.S. Fish and Wildlife Service, and helped the City to devise a project description that would avoid potential impact to listed species. Considerations taken into account in project planning include special-status species potentially present within the project area, avoidance of wildlife and pickleweed habitat, potential recreational and water quality impacts, and Best Management Practices for the use of an aquatic herbicide (Imazapyr). TRA provided the supporting documentation for a Categorical Exemption on this project.

Lead Agency: City of Palo Alto

**Bear Creek Bank Stabilization Project
Woodside, San Mateo County, 2003 to Present**

This is a bank stabilization and restoration project on Bear Creek in Woodside, California. The creek provides habitat for steelhead and non-breeding habitat for California red-legged frog (CRLF). TRA has completed the Biological survey, CRLF survey, and revegetation plan for this project. TRA is currently acting as Agency contact and liaison between the five agencies (US Fish and Wildlife Service, National Marine Fisheries Service, US Army Corps of Engineers, California Department of Fish and Game, and SF Bay Regional Water Quality Control Board) that have jurisdiction over the project. TRA biologist will move steelhead during cofferdam installation and survey for CRLF prior to construction activities.

Client: Private

**San Bruno Mountain Habitat Conservation Plan, Technical Assistance
San Mateo County, 1982 to Present**

TRA has performed the background biological data and authored much of the San Bruno Mountain HCP. Additionally, TRA has been performing the biological program of the HCP since 1982. This involves developing and implementing an annual work program in accordance with the San Bruno Mountain 5-Year Plan. The work program includes 1) managing subcontractors performing weed control and replanting, 2) coordinating prescribed burning and grazing projects, 3) conducting biological monitoring for the endangered species, 4) providing planning assistance to developers, 5) coordinating and sharing data with agencies and volunteer groups, and 6) submitting annual reports to the US Fish and Wildlife. The firm has also done community outreach to volunteer groups and by assisting the County with public workshops.

Lead Agency/Client: San Mateo County

**Guadalupe Valley Quarry Mitigation Monitoring
San Mateo County, 1995 to Present**

This project involves monitoring operational compliance with mitigation measures imposed by San Mateo County as conditions of the mining permit renewal. Monitoring includes scheduled and unannounced site inspections of operating conditions, review of inspection findings by geologists, and annual inspection of revegetation efforts and progress. Of primary concern has been adequate control of dust emissions caused by quarry operations, control of surface water runoff and water quality, the import of recycled material, and noise impacts on the adjacent community from haul truck traffic during night time operations. Routine inspections and good management practices by the quarry operator have resulted in improved compliance with permit conditions and elimination of dust and noise complaints.

**Carnegie Foundation Biological Resource Mitigation Program
Stanford, Santa Clara County, 2003-present**

Prepare and implement the Carnegie Easement Enhancement Plan. TRA prepared a management plan for a three-acre conservation easement adjacent to the new Carnegie Foundation Headquarters located in the foothills of Stanford University. The management plan included the installation of ten wood piles to

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g Page 9

encourage ground squirrel use in the grasslands and a program to monitor ground squirrel use of the wood piles. The plan also included a mowing program to reduce weed growth within the easement over time and a program to monitor new native tree plantings within the easement.

**Kirby Canyon Landfill Created Wetland Monitoring Study
San Jose, Santa Clara County, 2000-2003**

As a result of a Nationwide 26 permit granted by the Army Corps of Engineers for the Kirby Canyon Landfill, Waste Management built a wetland and an open water pond at the site. The Corps required five years of monitoring of the wetland and riparian vegetation. TRA took over the monitoring responsibilities the second year, which included a protocol survey for California red-legged frog. Monitoring methods follow criteria set forth in a wetland mitigation plan approved by the Corps in consultation with the US Fish and Wildlife Service.

Client: Waste Management

**San Mateo County Youth Service Center Biological Assessment and Mitigation Plan
San Mateo County, 2003**

Biological assessment and mitigation plan for a new Youth Services Center that would be located in an area with serpentine grassland, which contains habitat for the rare fragrant fritillary (Federal species of concern and CNPS List 1B) and potentially five other rare species. Plan includes methods for salvaging rare plants and requirements for monitoring, reporting, and remediation if necessary.

**Pescadero Cellular Antenna Installation, Local Coastal Plan Biological Assessment
Pescadero, San Mateo County, 2000**

TRA conducted a biotic assessment of the project area. Nearby pond supports probable red-legged frog breeding habitats. Biosearch prepared the follow-up assessment for the red-legged frog and recommended take avoidance and mitigation measures. Work also included project monitoring after construction.

TRA ENVIRONMENTAL SCIENCES, INC.

STAFF BIOGRAPHIES

TRA

VICTORIA HARRIS
SENIOR ASSOCIATE III

Ms. Harris is a natural resources specialist and biologist and has been at TRA since 1981. Since then she has managed over 100 CEQA Environmental Impact Reports (EIRs) and Initial Studies on diverse projects, including the construction of a recycled water project, stream improvement projects, small and large residential developments, office parks, road expansions, road bridges, landfill expansions, quarry operations, and general plan amendments. For the above studies she has acted as client liaison with the Lead Agency and researched and prepared the impact analysis sections for the following EIR or Initial Study disciplines: project description, plan consistency, land use, biology, noise, aesthetics, public services, socioeconomic, alternatives, and CEQA issues. In 2005 she was named Vice-President for Biological and Conservation Planning at TRA.

Ms. Harris also has expertise in preparing Habitat Conservation Plans (HCPs) and Natural Community Conservation Plans (NCCPs) for state and federally listed threatened and endangered species. She has participated in the preparation of several HCPs and HCP/NCCPs. The HCPs have ranged from small-single species HCPs to large multi-species HCP/NCCPs covering several hundred acres and involving multiple political jurisdictions.

In 2005, Ms. Harris was named Vice President of Conservation and Biological Studies. Her primary duties for these projects include project management and administration, attending task force meetings, coordinating biological studies for the covered species, and drafting HCPs. For most of these HCPs, Ms. Harris also directed the completion of the NEPA documentation required by the USFWS and the CEQA documentation required by land use agencies in California.

Selected Projects

- Prepared the Initial Study/Mitigated Negative Declaration for the San Mateo County Community College District Faculty/Staff Housing Project.
- Contributed to the preparation of the San Bruno Mountain HCP, which was the first HCP adopted by the U.S. Fish and Wildlife Service in 1982 and was the basis for the Incidental Take Permit provision (Section 10(a)(1)(B)) of the federal Endangered Species Act.
- Prepared numerous HCPs including: Placer County HCP/NCCP (vernal pool species), San Luis Obispo State Parks (snowy plover, Morro shoulderband snail, Kern Water Bank (San Joaquin kit fox and other species), Natomas Basin and Metro Air Park (giant garter snake and Swainson's hawk), Metropolitan Bakersfield (San Joaquin kit fox and other species), Seascapes Uplands and Tucker Pond (Santa Cruz long-toed salamander), San Benito County (San Joaquin kit fox and other species), and Quail Hollow Quarry (listed insects)
- Conducted and overseen biotic surveys for four endangered butterflies in California: Mission blue, San Bruno elfin, callippe silverspot, and Smith's blue.
- Managed preparation of CEQA documents for several transportation related projects in the Bay Area including bridge replacements, highway widenings, roadway extensions, and bike and pedestrian pathways.
- Assists State Parks and Recreation Department with regulatory compliance at Off-highway Vehicles Areas; review of OHV fund grants for CEQA compliance, reviews OHV fund grants for wildlife habitat management plan compliance.

Educational Background

University of California, Berkeley
Bachelors of Science, Conservation of Natural Resources

TRA ENVIRONMENTAL SCIENCES, INC.

TRA

AUTUMN MEISEL
ASSOCIATE IV

Mrs. Meisel joined TRA in 2005 and is an ecologist specialized in habitat assessment and management. She earned a Master's degree in conservation ecology from San Francisco State University in 2002. She is competent in overall site and habitat assessment, biological monitoring, and landscape level planning and management. In the field, Mrs. Meisel has experience in plant and wildlife identification, nesting bird surveys and burrowing owl focused surveys, construction monitoring, red-legged frog surveys, California tiger salamander monitoring, reconnaissance-level site surveys, wetland delineations, hydrologic monitoring, and vegetation and wildlife monitoring. She has worked in both conservation and land development settings and is familiar with on-the-ground conditions and/or concerns that may arise. She also has expertise in CEQA analysis, and has written sections for many different projects.

Prior to joining TRA, Mrs. Meisel worked as an environmental analyst, providing start to finish consultation services related to Clean Water Act Section 401 and California Department of Fish and Game 1602 permits. She has performed numerous biological assessments and has experience in analyzing the potential for occurrence of special-status species in a variety of habitats. She has written numerous mitigation and monitoring plans for the creation and/or enhancement of wetland, riparian, and grassland habitats, and has provided monitoring and year-end reporting services for mitigation plans, applying adaptive management when needed to ensure that sites meet their performance standards.

Mrs. Meisel also has expertise in habitat restoration at degraded sites and has overseen invasive weed control efforts, native out-planting, and plant establishment maintenance. She has lead volunteer groups in restoration work and provided education to others about ecology and resource management. Mrs. Meisel has aided in prioritizing restoration needs when resources were limited and has designed experimental vegetation management methods to better understand how to best meet desired goals so that resources may be put to the greatest use.

Selected Projects

- Manager for the San Bruno Mountain Habitat Conservation Plan. Tasks include grassland and coastal scrub management, invasive plant control, endangered butterfly monitoring, education, and reporting to lead and regulatory agencies.
- Contributing author on numerous CEQA documents, and has prepared Categorical Exemptions, Initial Studies, and Mitigated Negative Declarations for a variety of projects.
- Has completed numerous biological assessments, restoration monitoring, and has worked on the preparation of Habitat Conservation Plans.
- Worked as an environmental analyst, providing start to finish consultation services related to Clean Water Act Section 401 and California Department of Fish and Game 1602 permits.
- Performed numerous biological assessments in a variety of habitats and has compiled lists of potentially-occurring special-status species. She has written numerous mitigation and monitoring plans for the creation and/or enhancement of wetland, riparian, and grassland habitats, and has provided monitoring and year-end reporting services for mitigation plans, applying adaptive management when needed to ensure that sites meet their performance standards.

Educational Background

California State University, San Francisco
M.A., Conservation Biology
University of California, San Diego
Bachelors of Science, Biology, Ecology, Behavior, and Evolution

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g Page 12

TRA

SARA KRIER
ASSOCIATE IV

Ms. Krier joined TRA in 2006, and is an associate biologist with a background in environmental policy, ecology, and watershed science. She is an experienced project manager with skills in formulating project approach and in training and directing field crews. She has supervised field crews in data collection, species identification and data reporting on various biological elements such as wildlife, vegetation, and water quality.

One of Ms. Krier's areas of expertise is in watershed monitoring, assessment and analysis. Her responsibilities in this area have included lake and stream water quality sampling, shoreline and riparian assessments, and biological data collection. She has extensive experience collecting benthic macroinvertebrates and using backpack electroshock methods to voucher and tag fish. In her studies on watersheds, she has used ArcGIS, GPS and aerial photo interpretation in data analysis and in the production of figures for scientific reports. In conjunction with the University of Montana's Watershed Health Clinic, Ms. Krier spent four years performing field and laboratory work with the Montana Department of Environmental Quality using EPA assessment and monitoring protocols on Montana lakes and streams.

Ms. Krier's thesis work for her Master's degree investigated the chemical, riparian and land use changes along a tributary of the Clark Fork River in Montana. This tributary is known to be a principal contributor of phosphorus into the already nutrient rich Clark Fork River. These components were analyzed in comparison to a geologic study performed a decade previous.

Selected Projects

- Currently assisting with the preparation and management of a permit package application for a fuels management plan for a property owned by the Peninsula Open Space District (POST).
- Currently assisting with projects for the State Department of Parks and Recreation, Division of Off-Highway Vehicles including an EIS/EIR for the Habitat Conservation Plan for OHV parks in San Luis Obispo County.
- Experience with research and assessment of existing conditions and environmental impacts of activities to the natural and human environment; habitat assessments for rare and endangered species.
- Contributing author on numerous CEQA documents, and has prepared Initial Studies and Mitigated Negative Declarations for a variety of projects.
- Performed numerous biological assessments in a variety of habitats and has compiled lists of potentially-occurring special-status species. She has written mitigation and monitoring plans for the creation and/or enhancement of wetland, riparian, and grassland habitats, and has provided monitoring and year-end reporting services for mitigation plans. She has performed restoration and construction monitoring.
- Prior to joining TRA, spent four years performing water quality, riparian vegetation, fisheries and shoreline assessments for Montana lakes and streams.

Educational Background

University of Montana, Missoula, MT
Masters of Science, Environmental Studies
University of Colorado, Boulder, CO
Bachelor of Arts, Environmental, Population, and Organismic Biology and English Literature

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g Page 13

TRA

BRIAN WILLIAMS
ASSOCIATE III

Mr. Williams joined TRA in 2007, and is a biologist and planner specialized in habitat assessment. He earned a Master's degree in environmental studies from San José State University in 2004. He is competent in overall environmental impact assessment, including habitat, noise, geology and air quality assessment. In the field, Mr. Williams has experience in plant and wildlife identification, nesting bird and burrowing owl focused surveys, construction monitoring, reconnaissance-level site surveys, wetland delineations and noise monitoring. He has worked in both conservation and land development settings and is familiar with on-the-ground conditions and/or concerns that may arise. He also has experience in CEQA analysis, and has written initial studies as well as biological, air quality and geology sections of EIRs.

Prior to joining TRA, Mr. Williams worked as an assistant project manager and staff ecologist at Live Oak Associates, providing start to finish consultation services. He performed numerous biological assessments and analyzed the potential for occurrence of special-status species in a variety of habitats. He has provided monitoring and year-end reporting services for mitigation plans.

At TRA, Mr. Williams is responsible for completing biological surveys, wetland delineations, and CEQA documents. He has experience with the analysis of project impacts on biological resources under CEQA. Recently he has completed constraints analysis and impact studies for an estate home on the California coast, and two redevelopment projects in San Jose. These involved determining geology and soils constraints, including prime farmland, and addressing all of the CEQA Initial Study Checklist questions in detail.

Selected Projects

- Harbor Master's House: El Granada: Biological Assessment.
- 2550 Mission College Boulevard. Wrote the initial study checklist and air quality section for this EIR.
- City of Cupertino, Stevens Creek Restoration Project. Providing nesting bird survey and biological assessment for the restoration of Stevens Creek.
- Contributing author on numerous CEQA documents, and has prepared Initial Studies and differing sections of EIR documents for a variety of projects.
- Performed numerous biological assessments in a variety of habitats and has compiled lists of potentially-occurring special-status species.
- Experienced in plant and bird identification, nesting bird surveys and burrowing owl focused surveys, construction monitoring, reconnaissance-level site surveys, wetland delineations and vegetation monitoring.

Educational Background

California State University, San José
Masters of Science, Environmental Studies
George Mason University, Fairfax, VA
Bachelors of Science, Decision Science/Management of Information Systems

Professional Training

Wetland Delineation, Wetland Training Institute, September 2006
Arid West Supplement, Wetland Training Institute, April 2007
CEQA, University of California at Davis, April 2008

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g Page 14

TRA

REBECCA SLOAN
ASSOCIATE II

Mrs. Sloan joined TRA in 2008, and is an associate biologist with a background in marine and aquatic sciences, coastal ecology and resource management. Prior to joining TRA she managed projects requiring skills in multiple-stakeholder facilitation, experimental design and field crew management. She has supervised field crews in data collection, species identification and data reporting on various biological elements such as wildlife, vegetation, and water quality.

One of Mrs. Sloan's areas of expertise is the monitoring and habitat assessment of aquatic ecosystems in Coastal California, specifically in San Mateo and Santa Cruz counties. Her responsibilities in this area have included: Discreet and continuous water quality monitoring; Biological surveys for steelhead trout, California red-legged frogs, San Francisco garter snakes and tidewater gobies; Aquatic habitat assessment for non-point source pollution, eutrophication and sediment toxicity; Hydrologic assessments; Chemical and manual weed eradication in coastal dune, scrub and chaparral habitats; and Management of invasive bull frog populations. She has extensive experience collecting, managing, analyzing and presenting continuous and discreet water quality data, including: dissolved oxygen, temperature, pH, salinity, turbidity, carbon, nitrogen, phosphorus, chlorophyll, biological oxygen demand, sediment grain size and chemical pollutants and toxins. As a coastal ecologist, she has used ArcGIS, GPS, aerial photos and LiDAR data as interpretive tools for resource management and information dissemination.

In conjunction with the Environmental Studies and Biology Departments of San Jose State University, Moss Landing Marine Laboratories and California State Parks, Mrs. Sloan is in the fifth year of performing water quality and fisheries monitoring in Pescadero Marsh Natural Preserve, CA. This is a continuation of Mrs. Sloan's thesis work, which focused on characterizing the water quality surrounding a sandbar breach-associated fish kill event at Pescadero Lagoon.

Selected Projects

- Currently assisting with the preparation of an Initial Study and Mitigated Negative Declaration for a new, 400-student charter high school development project.
- Currently assisting with the preparation of the biology section of an Initial Study for the California Department of Parks and Recreation, Division of Off-Highway Motor Vehicles.
- Experience with research and assessment of existing conditions and environmental impacts of activities to the natural and human environment; habitat assessments for rare and endangered species.
- Contributing author on a marbled murrelet management plan for a California State Parks parcel.
- Prior to joining TRA, spent four years performing water quality, fisheries and habitat assessments on the Central Coast of California.

Permits Held

- Currently possesses an ESA Section 10(a)(1)(A) scientific research permit for the collection of adult and juvenile steelhead and coho in San Gregorio, Pomponio and Pescadero Creek and Lagoon habitats (permit #10017 expires 11/2012).
- Renewal of California State Scientific Collecting permit SC-007802 for the sampling of juvenile steelhead in Pescadero Lagoon currently being processed.

Educational Background

California State University, San Jose
Masters of Science, Environmental Studies
Eckerd College, St. Petersburg, FL
Bachelors of Science, Marine Science - Biology concentration and Chemistry minor

TRA ENVIRONMENTAL SCIENCES, INC.

O-11g Page 15

TRA

AARON GABBE, PH.D.
ASSOCIATE III

Mr. Gabbe joined TRA in 2008, and is an associate biologist with a PhD in Environmental Studies from the University of California, with an emphasis in conservation biology. Aaron's Masters and Ph.D work provided him with over 10 years experience conducting ecological research focused on interactions between plants and birds and applying science to conservation and restoration. Aaron has conducted ecological research from start to finish: from development of data collection methodology, to data analysis, to publication. Projects include those designed to assess habitats, monitor populations, and inventory species. Having conducted field research in California, Mr. Gabbe has an excellent knowledge of California ecosystems, flora, and fauna. Prior to joining TRA, he worked on field projects where he developed the experimental design, hired, trained, and managed field crews in data collection, species identification and data reporting.

Aaron's Ph.D. research focused on ecology, conservation and evolution of a pollination system between rufous hummingbird populations and their host plants in the Sierra Nevada Mountains. He designed and implemented the ecological experiments and population monitoring protocol and drafted a conservation plan for rufous hummingbird populations.

Other research work Aaron has participated in consisted of collaboration with the Cache River Restoration Project team in Illinois where research focused on the habitat relationships and foraging behavior of floodplain forest songbirds to inform land managers on how to best restore songbird habitat. Aaron was a Crew Leader with the Sustainable Ecosystems Institute in Boise, Idaho where he managed and coordinated the activities of research assistants on a project that analyzed the effects of timber harvest and forest habitat on avian communities and collaborated with team of natural resource professionals to develop and implement monitoring protocol.

Mr. Gabbe has numerous publications in journals such as *Conservation Biology*, *Restoration Ecology*, *Functional Ecology*, and *Ecology*, on topics ranging from tree species preference by foraging insectivorous birds and the implications for floodplain forest restoration, to the adaptive nature of dilute nectar: rufous hummingbird (*Selasphorus rufus*) concentration preference and constraints in nectar production patterns. Aaron has also refereed peer-reviewed articles for *Ecology*, *Ecological Applications*, *The Auk*, and *The Wilson Bulletin*

Educational Background

University of California, Santa Cruz
Ph.D. in Environmental Studies, December 2007
University of Illinois, Urbana-Champaign
M.S. in Natural Resources and Environmental Sciences, December 1999
University of Wisconsin, Madison
B.S. in Wildlife Ecology, December 1992

TRA ENVIRONMENTAL SCIENCES, INC.

O-12a

f!

LEAGUE OF WOMEN VOTERS
OF THE MONTEREY PENINSULA

January 6, 2009

Mike Novo
County of Monterey
Director of Planning
168 West Alisal St., 2nd Floor
Salinas, CA 93901

SUBJECT: COMMENTS ON 2007 GENERAL PLAN AND DEIR

Dear Mr. Novo:

The League of Women Voters of the Monterey Peninsula and the League of Women Voters of the Salinas Valley have reviewed GPU5 and the DEIR. Our comments follow:

2007 Draft General Plan (GPU5)

We are happy to see many of the changes to the updated plan. In particular, we support the reduction in the number of Community Areas and Rural Centers which will mean less sprawl and more compact growth. Limiting one unit for each residential lot of record in most of the Toro Planning Area, in North Monterey County and parts of the Great Salinas Area will begin to address those areas' serious water supply problems. Finally, the prohibition against subdividing agricultural land will help preserve one of Monterey County's prime economic sectors.

We do not support eliminating the prohibition against cultivation on uncultivated slopes greater than 25%. There are over 500,000 acres of such land in private ownership in the county. Many of these acres are rich in biological and habitat resources which require protection. Furthermore, sufficient land under 25% slopes exists within the county to accommodate viticulture growth.

We are concerned the policies protecting rare and endangered species have also been weakened to include only listed species. Limiting the policy to these species is inconsistent with CEQA Guidelines which require evaluation of candidate and special status species identified by the California Department of Fish and Game and U.S. Fish and Wildlife Service. Protecting all these species in the General Plan is a far more effective and efficient approach than addressing their protection on a case-by-case basis where project level impacts as well as cumulative impacts must be identified and mitigated as needed.

The Circulation Element, and hence the Noise Element, are inadequate. The Circulation Element does not meet California General Plan Guidelines which require identification of a road system needed to meet General Plan buildout. The Noise Element cannot obviously identify anticipated noise levels from a nonexistent road system.

PO BOX 1895
Monterey CA 93942

648-VOTE #178-RMAJ
LWVMPca@yahoo.com
www.lwvmp.org

O-12a

Finally, we do not support exemption of many of the proposed uses in the Winery Corridor from CEQA. A reading of the DEIR confirms that these projects may have significant adverse impacts on traffic, wildlife corridors and biological resources. Most of the mitigation for these issues is deferred until project level review which would be exempt from CEQA under GPU5 policies. Attempting to change State law through the General Plan process is flawed, and this exemption should be eliminated.

DEIR

PROJECT DESCRIPTION

1. Page 3-4. One of the objectives of GPU5 is to "Modify existing land use designations to patterns that accommodate the most recent population growth, housing, and employment projections..." The Plan and DEIR rely on the 2004 AMBAG projections, not those adopted by AMBAG in June 2008. The 2008 forecasts are considerably lower than the earlier ones. As the DEIR notes, using the higher forecasts overestimates impacts and is thus more conservative. However, this rationale does not apply to the 2008 Air Quality Management Plan for the Monterey Bay Region (AQMP) which includes the 2008 forecasts and accommodates a smaller population, thus making GPU5 inconsistent with the AQMP.

2. P. 3-8. The DEIR states GPU5 growth assumptions are derived from AMBAG's 2004 population forecast and that 2006 projections were adjusted to correct for traffic analysis zones (TAZ) that will be annexed into cities. This statement suggests that both the distribution and amount of growth were determined based on TAZ and AMBAG data.

AMBAG's 2004 forecasts and TAZ data used in AMBAG's traffic model show declining growth on the Monterey Peninsula for Carmel, Del Rey Oaks, Monterey, Pacific Grove, Sand City, and most unincorporated areas between 2005 and 2030. Population in the cities alone is shown to decline by 1,784 between 2005 and 2030.

Table 3-8 identifies new growth by planning area to 2030. Growth for the Monterey Peninsula shows that 1,760 dwelling units would be built in Carmel Valley, Mid-Carmel Valley AHO, the Greater Monterey Peninsula and the Highway 68/Airport AHO. GPU5 growth on the Monterey Peninsula is inconsistent with the 2004 AMBAG population forecasts and data used for the traffic model.

3. P. 3-9. The DEIR references both AMBAG and DOF forecasts. These forecasts include coastal areas which are excluded from analysis in the DEIR. Please explain how these forecasts are adjusted to account for this exclusion.

Additionally, it was determined that the Del Monte Forest LCP need not be analyzed because growth is not expected to occur there. The property owners (Pebble Beach Co.) are currently reworking a development plan, after a previous one approved by County

O-12a	
voters and the Board of Supervisors was not approved by the Coastal Commission. There may be expanded commercial (hotel) development, as well as new residential subdivisions. While growth and residential subdivisions will be limited by the Plan, building and development in the area may occur sooner than in others; since water and sewer service is available. Potential growth in this area should be addressed.	8
4. <u>P. 3-10.</u> The DEIR states that about 417 building permits are issued yearly. Please identify the source for this information.	9
5. <u>P. 3-13.</u> Table 3-5 shows that 2030 buildout of GPU5 would be 10,015 new units based on using an adjusted 2006 number minus AMBAG 2030 dwelling unit number. (48,670 minus 38,655). AMBAG's 2030 forecasts include growth in coastal areas which are excluded from Table 3-8. The DEIR for GPU4 identified over 2,500 lots of record for coastal areas. Please explain how growth in coastal areas is accounted for in GPU5 2030 buildout number of 10,015 new units and its relationship to AMBAG's 2030 forecasts.	10
6. <u>P. 3-16.</u> Table 3-8. This table identifies where growth would occur by 2030 and 2092. The table excludes coastal areas, units that could be built in the Winery Corridor and subdivisions that could be built outside of Community Areas and Rural Centers. Winery Corridor units allowed under AWCP Policy 3.3 would total at least 200. Subdivisions that could be built outside of Community Areas and Rural Centers are allowed under GPU5. GPU4 estimated 1,200 units could be built in this category. Explain why growth in these categories are excluded from the 2030 buildout number. This table also identifies full buildout for 2092. Buildout should be based on land use designations identified in GPU5. However, some buildout numbers are inconsistent with GPU5 policies. For example, in North County and Toro Planning Areas, policies limit development to one unit per legal lot of record, yet the buildout numbers far exceed development allowed under the policies. Buildout for 2092 numbers should be re-evaluated to assure consistency with GPU5 policies.	11
<u>LAND USE</u>	
7. <u>Page 4-1-3.</u> The DEIR states GPU5 would not amend the County's Local Coastal Program. This is inconsistent with the proposed Castroville Community Area which is in the Coastal Zone. As stated earlier in the DEIR, the plan for this area has been submitted to the Coastal Commission for action. Even so, GPU5 includes the Castroville Community Area as one of five community areas for development, and thus, GPU5 would amend the County's Local Coastal Program.	12
8. <u>Page 4-1-7.</u> The DEIR implies that the Growth Management Policy adopted in 1979 is part of GPU5; however, GPU5 does not reference this policy. A similar reference to this policy is made on p. 4.1-20 of the DEIR (this policy "...forms the underlying foundation of the entire 2007 General Plan"). The relationship between the policy and GPU5 should be clarified.	13

O-12a	
9. <u>P. 4-1-10, line 7.</u> "incorporated" areas should be "unincorporated" areas.	14
10. <u>Page 4-1-18.</u> The DEIR references updating zoning ordinances as a mechanism to "promote" consistency between GPU5 and the zoning ordinances. Since zoning ordinances are required to be consistent with general plan under State law, "promote" should be changed to "assure".	15
11. <u>P. 4-2-27.</u> The DEIR implies that the conversion of over 2,000 acres of agricultural land to urban uses is needed to meet requirements of State Planning Law. As discussed above, 2030 buildout would be 10,015 new units. Using 2008 AMBAG forecasts of housing growth in unincorporated areas between 2005 and 2030 (8,270 units) and accounting for units not included in the 2030 buildout number as described above, units would far exceed AMBAG forecasts. Conversion of over 2,000 acres of agricultural land cannot be justified based on these forecasts.	16
<u>WATER RESOURCES</u>	
12. The DEIR should add a brief description of Ordinance 135 recently adopted by the MPWMD to the Regulatory Framework. It expands the Monterey Peninsula Water Resource System to include the entire Seaside Groundwater Basin, thus adding Cal-Am systems serving Bishop, Hidden Hills and Ryan Ranch. This permits the WMD to restrict production and order conservation measures as needed to prevent further overdrafting of the Basin.	17
13. <u>P. 4-3-34.</u> Agricultural water demand in the Salinas Valley is projected by MCWRA to decline by 60,000 AFY by 2030. Does this estimate account for increased agricultural use that would be allowed on steep slopes?	18
14. <u>P. 4-3-34.</u> Discussion of the Salinas Valley Water Project should identify whether reference is to Phase I or Phase II or both phases.	19
15. <u>P. 4-3-39.</u> The DEIR states that no additional demand in the Carmel River basin is expected under GPU5. This contradicts the earlier reference to the Mid-Valley AHO and new development of 266 lots (p. 4.3-38) in Carmel Valley. In addition, the following development which would be supplied by water from the Carmel River and Seaside aquifer is described on Table 3-8: 510 units on the Greater Monterey Peninsula including 976 units for the Highway 68/Airport AHO. This development is in addition to development expected within the cities on the Monterey Peninsula. Finally, the discussion of water for the Monterey Peninsula should be updated to, at a minimum, describe the desalination plant being constructed by CalAm for the City of Sand City.	20
16. <u>P. 4-3-41.</u> The discussion of the PVMWA is significantly out-of-date and should be revised to include new information about water supply alternatives and the tenuous situation of the Agency.	21

O-12a	
17. <u>P. 4.3-54, Table 4.3-8.</u> This table identifies 21 streams, canals and bodies of water in Monterey County that are polluted and require preparation of action plans between 2008 and 2019. The DEIR finds that implementation of GPU5 policies would prevent significant impacts of 2030 and 2092 development-on these bodies of water. Many of the referenced policies are voluntary. Mitigation Measure PS-1 (p. 4.11-34) requires all future development implement the most feasible number of Low Impact Development Techniques as possible; however, it does not limit post-runoff to pre-development runoff. Without this provision, urban runoff will continue to impact our local streams and waterways.	22
18. <u>P. 4.3-102.</u> The DEIR acknowledges that Routine and Ongoing Agricultural Activities except those occurring on conversion of previously uncultivated lands are exempt from permit requirements including those to prevent soil erosion. However, with limited discussion of this exemption, GPU5 land use is found to have no significant impact on erosion. This finding is unsubstantiated.	23
19. <u>P. 4.3-114.</u> The DEIR relies on AMBAG projections for agricultural employment and MCWRA water projections to support its contention that there will be no net expansion in overall agricultural acreage through 2030. This is inconsistent with an earlier finding (p.4.3-108) that future vineyard planting may be an indirect result of the AWCP. Based on the vineyard conversion rate of over 11,000 acres between 1996 and 2006 and the potential impact of the AWCP, the finding regarding no expansion of agricultural acreage should be further substantiated.	24
20. <u>P. 4.3-119.</u> The discussion regarding seawater instruction in Fort Ord communities and Marina states that Cal-Am proposed desalination plant is a potential source of water for these areas. The Cal-Am proposal would only provide water to address Order 95-10 and Seaside Aquifer adjudication requirements.	25
21. <u>P. 4.3-120.</u> Do water demand estimates for wineries include water for sterilization of equipment and other operational needs?	26
22. <u>P. 4.3-127.</u> Reference is made to the Coastal Water Project providing sufficient water to enable Fort Ord allotments to be met. Fort Ord projects are not served by Cal-Am.	27
23. <u>P. 4.3-137.</u> The Water for Monterey County's Regional Water Supply Program has been revised to exclude brackish water desalination.	28
<u>GEOLOGY, SOILS AND EROSION</u>	
24. <u>Pp. 4.4-37 to 4.4-43.</u> The DEIR addresses the potential for increased erosion from implementation of GPU5. It concludes that GPU5 policies and existing federal, state, and local erosion control requirements do not adequately mitigate significant impacts. It finds that Mitigation Measure BIO-2.1 would reduce impacts to less-than-significant. This measure would require the development of a Stream Setback Ordinance applicable to all	29

O-12a	
discretionary permits and conversion of previously uncultivated agricultural land on normal soil slopes over 15% or on highly erodible soils on slopes over 10%. This is a deferred mitigation measure with no specific performance standards other than to "reduce sediment and other-water quality impacts of new development" This does not meet CEQA requirements for mitigation measures.	29
<u>MINERAL RESOURCES</u>	
25. <u>P. 4.5-5.</u> Under the discussion of abandoned mines, why is there no mention of the abandoned asbestos mine near King City?	30
<u>TRANSPORTATION</u>	
26. <u>P. 4.6-23.</u> The DEIR notes that the roadway networks assume construction of the TAMC regional fee programs as well as the capacity enhancements proposed by the County in GPU5. Construction of all but 12 of the improvements on TAMC regional fee project list depend on passage of the 1/2-cent sales tax which was defeated in the November 2008 election. Without the sales tax, it is unlikely that these improvements will be constructed on schedule or constructed at all. Additionally, the DEIR should explain the need for significant additional local revenues, as well as state and federal, to fund necessary traffic improvements.	31
27. <u>P. 4.6-26, Table 4.6-13.</u> This table includes widening Espinosa Road. This improvement is not identified on Table C-2 of GPU5.	32
28. <u>P. 4.6-27.</u> The DEIR indicates that new development is not expected to occur in coastal areas under general plan buildout. The Final EIR for GPU4, Tables 3-2, 3-5, 3-8, identified 2,589 Coastal Zone Legal Lots of Record. Please identify how coastal units were accounted for in the traffic model.	33
29. <u>P. 4.6-31.</u> The DEIR finds that project-specific impacts on county roadways would not fall below LOS D because of Circulation Element Policies. The DEIR fails to address Policy C-1.1 which allows County roads and intersections to degrade below D through the Community Plan process.	34
30. <u>PP. 4.6-53, 4.6-77, and 4.6-107.</u> The DEIR finds that GPU5 would not conflict with the provision of alternative transportation since the Plan would concentrate development in Community Areas, Rural Centers and Affordable Housing Opportunity overlays. The analysis assumes that these areas can readily be served by alternative modes of transportation. It fails to account for communities such as Pajaro and the seven rural centers which are dispersed throughout the county at densities and locations that are not readily serviced by public transit (over 1,000 units). The plan allows for subdivisions outside any of the areas described above as well as sprawl development of over 2,000 units	35

O-12a	
<p>in the planning areas, not to mention the potential development of over 2,000 units dispersed throughout coastal areas. Finally, the AHO program is intended to promote more affordable housing near public transportation, places of employment, shopping and schools. The DEIR should analyze how each of the Districts meets these criteria.</p>	35
<p>31. <u>P. 4.6-57.</u> The DEIR addresses project-specific impacts of development under "2030 cumulative plus project conditions" which is defined as GPU5 2030 buildout plus growth in cities to 2030. It finds the impact on roads to be less than significant based on GPU5 policies. Since GPU5 policies allow for a fair-share contribution to roadway improvements rather than requiring improvements concurrent with projects, the conclusion is not supportable. Further, GPU5 policies do not affect city projects which could contribute to cumulative impacts.</p>	36
<p>32. <u>P. 4.6-116.</u> The DEIR finds that impacts to Winery Corridor roadways can be mitigated through capacity and safety improvements and these mitigation measures would be implemented through a combination of project-specific mitigation and a CIP. Policy 3.3 of the Winery Corridor Plan exempts the following uses from CEQA review: artisan wineries, tasting rooms, visitor-serving uses, and food service facilities. The DEIR finds that Winery Corridor projects may have a significant impact on roadways and that mitigation measures may be required. This finding calls into question the CEQA exemptions proposed in Policy 3.3. Further, the DEIR fails to address safety issues related to the conflict between agricultural vehicles which use County roads and visitors to wine tasting facilities.</p>	37
<p>33. <u>Transportation Section.</u> The DEIR does not address the impact of new development on deteriorating roads and highways. The County has a deferred maintenance cost of \$800 million. At current annual expenditures and with proposed development, the roadways will continue to degrade increasing safety hazards and more and more potholes.</p>	38
<u>AIR QUALITY</u>	
<p>34. This section relies on the 2004 AQMP to determine GPU5's cumulative impact on regional ozone levels. As noted earlier, the AQMP was updated in 2008 and includes significantly lower population forecasts. GPU5 should be found to have a significant impact on regional air quality. The DEIR's cumulative impact analysis as defined in this section only addresses cumulative growth in unincorporated areas and fails to address city growth as was undertaken in the Transportation Section of the DEIR. This analysis should be prepared. Since the 2008 AQMP does not show attainment of State ozone standards at any time in the future and the project is inconsistent with the AQMP, the health impacts of on-going regionwide violations of these standards should be addressed.</p>	39
<p>The analysis of the impact of fermentation emissions on ozone levels relies on annual daily averages rather than reflecting the distribution of emissions as identified in the DEIR (Table 4.7-1). This analysis should be revised to reflect actual daily emissions.</p>	

O-12a							
<p>35. <u>P. 4.7-7.</u> The DEIR incorrectly identifies the designation status for State and Federal ambient air quality standards and fails to reference PM_{2.5} standards. This section should be updated (see 2008 AQMP, p. 2-5).</p>	40						
<p>36. <u>P. 4.7-8.</u> The air monitoring station in Carmel Valley is excluded from the list of Monterey County stations.</p>	41						
<p>37. <u>P. 4.7-8.</u> Table 4.7-2 is identified as presenting air quality monitoring data for the last three years; however, this table lists VOC emissions from wine fermenting and ageing.</p>	42						
<p>38. <u>P. 4.7-15, Table 4.7-3.</u> The table shows the following population forecasts for GPU5:</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>2000 with project</td> <td>509,692</td> </tr> <tr> <td>2030 with project</td> <td>437,665</td> </tr> <tr> <td>2030 Cumulative</td> <td>602,790</td> </tr> </table> <p>The 2000 number makes no sense. It is over 72,000 people higher than the 2030 number. The 2000 population for Monterey County was 401,312, not 509,692, and unincorporated Monterey County was 110,083. The 2030 population with project is identified as 437,665; unincorporated Monterey County population based on 2004 AMBAG forecasts would be 135,375.</p>	2000 with project	509,692	2030 with project	437,665	2030 Cumulative	602,790	43
2000 with project	509,692						
2030 with project	437,665						
2030 Cumulative	602,790						
<p>39. <u>P. 4.7-17.</u> The DEIR concludes that "2092 Buildout" of GPU5 would not significantly impact air quality because GPU5 policies require measures to avoid or minimize adverse impact on air quality "to the maximum extent practicable." Such measures do not assure that development would remain consistent with the AQMP. As described above, the "2030 Buildout" is inconsistent with the 2008 AQMP. Lacking GPU5 policies that assure consistency, GPU5 "2092 Buildout" should be found to have significant impacts on regional ozone levels.</p>	44						
<p>40. <u>P. 4.7-20.</u> Mitigation Measure AQ-1 includes a new policy, OS-10.5. Several words are omitted from the proposed policy, making it incomprehensible. It is impossible to determine if the policy would mitigate significant adverse impacts of emissions from construction.</p>	45						
<p>41. <u>P. 4.7-33.</u> The DEIR finds that implementation of GPU5 would increase exposure to diesel exhaust emissions which are classified as toxic air contaminants. It finds that with implementation of Mitigation Measures AQ-6, impacts would be reduced to less than significant. Mitigation Measure AQ-6 would require that construction contracts be given to contractors who show evidence of the use of soot traps, ultra-low sulfur fuels and other diesel engine emissions upgrades that reduce PM₁₀ emissions to less than 50% of the statewide PM₁₀ emissions average for comparable equipment. No evidence is provided that supports a finding that these measures would reduce emissions to less than significant.</p> <p>Since these controls may not always reduce diesel exhaust emissions to levels that protect</p>	46						

O-12a

the public health (see DEIR for Rancho Canada Village), the mitigation measure should include an additional requirement that all project applicants work with the Monterey Bay Unified Air Pollution Control District to assure that health based standards are met.

46

Mitigation Measure AQ-7 includes a new policy, OS-10.10, that provides that development of new sensitive land uses **should** not be located any closer than 500 feet of a freeway carrying more than 100,000 vehicles per day. Even though Policy OS-10.10 is not required, the DEIR concludes impacts of exposure to diesel exhaust emissions would be less than significant. This finding should be supported by evidence.

- 42. P. 4.7-34. The MBUAPCD has identified diesel risk corridors for the NCCAB to address Environmental Justice requirements of the Carl Moyer Grant Program. The risk corridors include major highways and arterials in the Basin and identify areas along the corridor where the cancer risk is greater than one incident per 100,000 population, the Districts threshold of significance for toxic air contaminants. Over 80 percent of the population residing in the three county Air Basin lives within a diesel risk corridor.

The DEIR addresses the impact of diesel exhaust from construction activities. It, however, does not substantially address the increase in operational diesel exhaust emissions from mobile and stationary sources. The DEIR concludes that with mitigation measures identified above, "2092 Buildout" would not result in significant health risks due to diesel exhaust. Since urban development intensifies the concentration of diesel exhaust, please explain why it is unlikely that the cumulative impact of diesel exhaust emissions would not be significant and unavoidable. A mitigation measure requiring that project applicants work with the Air District to assure that the cumulative impacts of diesel exhaust emissions fall within public health standards should be added to the list of mitigation measures.

47

The DEIR also fails to address the cumulative impact of other sources of toxic emissions such as gasoline dispensing stations on existing levels of toxic air contaminants. Since over 80 percent of the population is already exposed to levels exceeding the District's threshold of significance, increases in traffic congestion and other sources of toxic air contaminants allowed by the GPU5 would have a significant and unavoidable cumulative impact on the public's exposure to toxic air contaminants.

- 43. Air Quality and Fugitive Dust Emissions from Agricultural Operations. GPU5 policies would allow cultivation on steep slopes. With an estimated 500,000 acres of privately owned land with slopes over 30%, conversion of slopes to agricultural would increase. Since PM₁₀ emissions from agricultural operations is a major source of PM₁₀ emissions in Monterey County, implementation of GPU5 may have a significant adverse effect on air quality. Increased fugitive dust emissions from conversion of slopes should be addressed.

48

BIOLOGICAL RESOURCES

- 44. P. 4.9-73. The DEIR finds that GPU5 would result in reduced numbers, range and habitat

49

O-12a

and quality for plant, wildlife and fish species that are defined as "rare, threatened, or endangered" under CEQA. The following mitigation measures are recommended:

- a. Preparation of a -baseline inventory to be updated every ten years.-
- b. Salinas Valley conservation Plan to preserve the San Joaquin kit fox.
- c. Project level biological survey and avoidance, minimization, and compensation for species identified in the baseline inventory. The policy would apply to Community Areas, Rural Centers and Housing Overlays; development requiring discretionary permits and large scale wineries in the AWCP.

The DEIR notes that cultivation on uncultivated steep slopes allowed under GPU5 could have a significant impact on biological resources. It, however, concludes (p. 4.9-76) that conversion of uncultivated agricultural lands to new farmland would not have a significant impact based on a conversion rate of 450 acres per year (1982-2006) and the assumption that cultivation would be dispersed. Because these activities would be excluded under the proposed mitigation measures, they should be found to have a significant and unavoidable impact on biological resources.

49

Further, the analysis does not address the 40 artisan wineries, 200 dwelling units, tasting rooms and other facilities that would be allowed in the AWCP. Because these facilities would be exempt from CEQA under GPU5 and therefore from proposed mitigation measures, they should be found to have a significant and unavoidable impact on biological resources.

- 45. P. 4.9-94. Mitigation Measure Bio-3.1 requires discretionary projects to retain movement corridors. GPU5 is found to not have a significant impact on wildlife corridors based on the same reasoning described above. And for the same reasons we have identified above, GPU5 should be found to have a significant and unavoidable impact on wildlife corridors. Additionally, the wildlife corridors affected by the AWPC should be identified and the impacts of nondiscretionary projects permitted under the AWPC should be addressed.

50

PUBLIC SERVICES AND UTILITIES AND HAZARDS AND HAZARDOUS MATERIALS

- 46. P. 4.11-14 and 4.13-25. The DEIR finds that development and land use activities proposed in GPU5 may result in a need for new or expanded fire facilities but that policies in the Plan would mitigate impacts to less than significant. This finding is based on policies affecting development within Community Areas, Rural Centers and AHOS.

The DEIR does not address the more than 2,000 units that could be constructed in inland areas and the cumulative impact on fire services of units within Coastal areas. Under GPU5 development would be allowed in areas with a response time of 45 minutes. Based on buildout potential in rural areas and a response time of 45 minutes, extensive rural development would be allowed requiring a demand for more fire protection both by numbers of residences and their location near fire hazard areas. The DEIR fails to analyze the impacts associated with dispersing new units throughout the large rural areas of the

51

O-12a	
county. Already overstressed services would be further weakened as a result of emergency personnel having to make more trips to distant sites.	51
47. <u>P.4.11-2 and 4.13.25</u> The DEIR does not adequately describe the availability of fire services in the unincorporated area. This section should be rewritten to address the lack of fire coverage along the southern 101 corridor and in other areas. Additionally, it should be revised to describe the types of services provided by CDFFP. The services of the CDFFP are not intended to provide fire protection for structures. Very high fire hazards make many areas unsafe for development and occupancy unless strong fire safety measures are taken. Even where structural protection does exist, fire suppression may be hampered by lack of water, rugged terrain and delayed response times. The DEIR should provide information that will allow for an assessment of high fire hazards and identify those areas that do not have structural coverage.	52
48. The Affordable Housing Overlay District is a new attempt by the County to create an incentive program which encourages developers to build more affordable housing. It includes fast-track processing, fee waivers, higher densities, etc. plus requirement of specific minimum percentages of low income through workforce housing. The Housing Element adopted in 2003 did not include this program, so it does not contain a description of the available public services to serve the areas designated as AHOs, or the constraints. This information is given for the Rural Centers and Community Areas, but isn't added for AHOs in the GPU5 Update.	53
In the designated AHO Districts the infrastructure costs which must be shared by the developers of projects may be high. The increased densities which could be allowed (up to 30 du/acre) would help with economic viability and promote clustering; however, wastewater treatment systems would be needed. Plan policies favor connection to existing systems, but the DEIR does not identify whether these are available near the AHOs. This information should be added.	
<u>AESTHETICS, LIGHT AND GLARE</u>	
49. <u>P.4.14-30</u> . The DEIR states that because specific locations of future AWCP facilities are unknown at the time the DEIR was prepared, further analysis of potential scenic vista impacts will be done at the project level. This finding fails to account for GPU5 policies that exempt most facilities in the AWCP from CEQA review and is an acknowledgment of inapplicability of the GPU5 policy.	54
<u>HOUSING AND POPULATION</u>	
50. <u>P.4.15-2</u> . The DEIR attempts to justify the use of outdated AMBAG forecasts because the AMBAG traffic model, the adopted Housing Element and AQMP are based on them. The 2008 AQMP was updated in August 2008 to include the 2008 AMBAG forecasts. The new fair share housing allocation which was revised by AMBAG in the spring of 2008 shows a significantly lower affordable housing requirement than the number	55

O-12a	
included in the adopted Housing element as acknowledged on p. 4.15-8. This section is significantly out-of-date and should be revised.	55
51. <u>P.4.15-2</u> . This table cites DOF population--data of 432,600 as the 2005 estimate. This appears to conflict with the discussion on p. 4.15-12 which states the DOF estimate for July 2007 was 425,546, over 7,000 people lower.	56
52. <u>P.4.15-5</u> . Using out-dated AMBAG forecasts, the DEIR concludes that population in unincorporated Monterey County will decline between 2005 and 2010. The revised forecasts show an increase of over 3,300 people.	57
53. <u>P.4.15-13</u> . The DEIR states GPU5 has a "2030 Buildout" potential of 10,015 new units between 2006 and 2030. Referring to the 10,015 new unit number as "2030 Buildout" is misleading, since buildout of the GPU5 is actually 35,704 new units (P. 4-15.17).	58
54. <u>P.4.15-15</u> . The text lists Community Areas and Rural Centers intended for development. The list excludes San Lucas, Lockwood and Pleyto Rural Centers. It does not identify units to be developed outside those areas, in the Coastal Zone and within Winery Corridors.	59
55. <u>P.4.15-17</u> . The DEIR identifies another buildout number of 74,573 total units or 35,908 new units between 2005 and 2092 (74,573-38,869). This would be 25,893 new units beyond those identified for "2030 Buildout". Since there would be limited development potential within Community Areas and Rural Centers by 2030, the 25,893 new units would be dispersed throughout unincorporated areas further contributing to urban sprawl.	60
56. <u>P.4.15-17</u> . Does the buildout number include buildout on all designated land uses, e.g., Resource Conservation, Grazing Land, coastal zone, etc.?	61
<u>CLIMATE CHANGE</u>	
57. <u>P.4.16-5</u> . Table 4.15-1 identifies GHG emissions; however, it does not indicate if these are daily or annual emissions or what the units are -- pounds or tons. In 2005, mobile sources in Monterey County generated 7,440 tons or 14,800,000 lbs per day of CO ₂ (2008 Air Quality Management Plan for the Monterey Bay Region). Assuming unincorporated Monterey County's share is 25%, emissions would be 1,850 tons per day or 675,250 tons per year. Based on this analysis, we assume the units on the table are annual tons.	62
58. <u>Appendix B -- Greenhouse Gas Emission Inventory and Forecast Methodology</u> . While this appendix describes the methodology, it does not provide any of the assumptions or data used to calculate GHG. Without the data, it is impossible to verify emission calculations.	63
<u>ALTERNATIVES TO GPU5</u>	

O-12a

59. P. 5-7. The alternatives are not based on the same assumptions. Table 5-1 identifies buildout for the 1982 GP has 13,570 dwelling units. This number is from the Table 1, Analysis of Monterey County General Plans & Quality of Life Initiative, 2006 Bay Area Economic Report (not 2007 report as-stated-in-the-DEIR); GPU5 buildout is identified as 13,420 new units in Table 5-1, 10,015 new units in Table 5-2, and 21,666 new units in Table 5-5. In any case, buildout as identified in the DEIR is 35,704 new units. The comparison of these alternatives, therefore, is meaningless.

64

60. P. 5-2. The comparison of GPU3 and GPU5 is not based on the same assumptions. Table 5-2 identifies 13,675 new units as buildout for GPU3 and new 10,015 units as buildout for GPU5. As noted above, the real GPU5 buildout number is 35,704 new units. The comparison of these alternatives, therefore, is meaningless. Also, the DEIR for GPU4 identified 21,666 units as buildout. Please explain the difference between the two buildout numbers for GPU3.

65

61. P. 5-27. The comparison of GPI and GPU5 is not based on the same assumptions. Table 5-2 identifies 13,974 new units as buildout for GPI and 10,015 new units as buildout for GPU5. As noted above, the real GPU5 buildout number is 35,704 new units. The comparison of these alternatives, therefore, is meaningless.

66

62. P. 5-40. The comparison of GPU4 and GPU5 is not based on the same assumptions. Table 5-4 identifies buildout for GPU4 as 16,900 and 10,015 units as buildout for GPU5. As noted above, the real GPU5 buildout number is 35,704 new units. The comparison of these alternatives, therefore, is meaningless.

67

63. P. 5-53. This comparison is even more confusing. Table 5-5 identifies buildout for a TOD alternative and GPU5 as 21,600 units. Please explain the 21,600 units for GPU5.

68

CARMEL VALLEY MASTER PLAN

64. The DEIR should explain the 2092 buildout numbers in relationship to the Rancho Canada Village project including possible allowable densities, the Val Verde Drive project, and the Villas de Carmelo and the Rancho Canada plan for hotel/timeshare units and employee units and the Delfino proposal for residential lots.

69

Thank you for the opportunity to review the documents.

Sincerely,

Janet Brennan
President
LWV of the Monterey Peninsula

MaryEllen Dick
President
LWV of the Salinas Valley

O-12b



THE LEAGUE
OF WOMEN VOTERS
OF THE MONTEREY PENINSULA

Monterey County
Planning and Building
Inspection Administration

FEB 14 2009

RECEIVED

e-mailed 2/14/09

4:07 pm

February 4, 2009

Mike Novo
Director of Planning
County of Monterey
168 west Alisal Street, 2nd Floor
Salinas, CA 93901

Dear Mr. Novo:

I am submitting comments on the Air Quality Section of the DEIR for GPU5. These comments were inadvertently omitted from the letter from the Leagues of Women Voters of the Monterey Peninsula and the Salinas Valley. They supplement comment 34 regarding fermentation emissions.

1. P. 4.7-16. The DEIR concludes VOC emissions from wineries would be within the 2030 AQMP emission inventory of 2,227 lbs/day. The AQMP shows growth in emissions of 1263.8 lbs/day between 2005 and 2030. The DEIR states wineries permitted under GPU5 would generate 318,290.5 lbs/year of VOC emissions or 905.3 lbs/day. These would be new emissions.

1

Data in DEIR Table 4.7-1, show that 28.5 % of emissions would be generated in September and 32.1% in October, two months of the ozone season. Based on annual VOC emissions identified above, approximately 90,712 lbs (3,024 lbs/day) would be emitted in September and 102,171 lbs (3,296 lbs/day) in October. These levels exceed emissions from wineries accommodated in the 2008 AQMP. Cumulative emissions from wineries should be found to have a significant and unavoidable adverse impacts on regional ozone levels.

2. P. 4.7-24. Table 4.7-7 identifies VOC emissions from a single artisan winery and a single full-scale winery. Daily emissions do not account for variation in emissions associated with fermentation and ageing. Data in DEIR Table 4.7-1, show that 28.5 % of emissions would be generated in September and 32.1% in October, two months of the ozone season. Based on these data, a single full-scale winery would generate 31,388 lbs (1,046 lbs/day) in September and 35,353 lbs (1,140 lbs/day) in October, far in excess of MBUAPCD's threshold of significance of 137 lbs/day. Full-scale wineries would have a significant and unavoidable adverse project level impact on regional ozone levels.

2

Thank you for your consideration.

Sincerely,

s/Janet Brennan

Janet Brennan
President
LWV of the Monterey Peninsula

O-13a



Cox, Castle & Nicholson LLP
535 California Street, 10th Floor
San Francisco, California 94104-1513
P 415.392.4200 F 415.392.4250
Sarah Ellen Ostrowitz
415.262.5122
sostrowitz@coxcastle.com

January 7, 2009

Monterey County
Planning and Building
Inspection Administration

VIA OVERNIGHT MAIL

JAN 08 2009

Charles J. McKee
County Counsel
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

RECEIVED

Re: Definition of "Special-Status Species" In Monterey County 2007 General Plan Draft EIR

Dear Mr. McKee:

On behalf of the Monterey County Cattlemen's Association we have prepared the following analysis of the appropriateness of the use of the term "CEQA-Defined Special Status Species" in the Draft Environmental Impact Report ("Draft EIR") for the Monterey County 2007 General Plan ("2007 General Plan"). The Association is concerned that the Draft EIR's use of this term may not comport with CEQA and goes beyond legal requirements. The Draft EIR disregards the 2007 General Plan's definition of "Special Status Species," a definition which includes only those species listed as threatened or endangered pursuant to the federal Endangered Species Act ("ESA") or rare, threatened or endangered under the California Endangered Species Act ("CESA"). Instead, the Draft EIR coins a new, more expansive term, "CEQA Defined Special Status Species," which includes a long list of unlisted "candidate" and "sensitive" species. The Draft EIR employs this new term in conducting its analysis of the potential impacts of implementation of the 2007 General Plan.

Based on our review of the Draft EIR, as well as of CEQA, the CEQA Guidelines and applicable case law, we have determined that the Draft EIR inappropriately assumes that unlisted "candidate" and "sensitive" species are "rare" or "endangered" species which require consideration under CEQA. There is no provision of CEQA or other state law which requires the County to employ such an expansive definition of Special Status Species, nor has the County issued any policy directing the EIR to employ such this definition. It also appears that there is contrary policy direction from the County on this issue, namely the County's proposal in the 2007 General Plan to employ a narrower definition of Special Status Species – a definition which is consistent with the requirements of CEQA and legally defensible. Finally, there is no provision of CEQA or other state law which requires the County to employ significance thresholds that consider the 2007 General Plan's potential impacts to unlisted "candidate" and "sensitive" species.

999991128237v3

www.coxcastle.com

Los Angeles | Orange County | San Francisco

O-13a

Charles J. McKee
January 7, 2009
Page 2

Analysis

The Draft EIR's Definition "CEQA-Defined Special Status Species" Is Not Supported By Substantial Evidence As Required by CEQA Guideline Section 15380.

The Draft EIR considers the potential environmental impacts of implementing the policies of the draft 2007 General Plan. It states that the 2007 General Plan's definition of "special status species" provides for the "assessment and mitigation of impacts" to species listed as threatened or endangered pursuant to the ESA or rare, threatened or endangered under CESA. However, the Draft EIR asserts that because the "2007 General Plan does not provide a systematic approach to address the impacts of development to CEQA-defined special status species," implementation of the 2007 General Plan will result in "potentially significant" impacts to CEQA-defined special status species. (Draft EIR at p. 4.9-73.) The Draft EIR defines "CEQA-Defined Special Status species" as including:

both listed and non-listed species that are candidate, sensitive, or special-status species in local or regional plans, policy or regulations, or by the [California Department of Fish and Game] or [United State Fish and Wildlife Service] or that otherwise meet the definitions of rare or endangered under CEQA based on substantial evidence (State CEQA Guidelines Section 15380).¹

(Draft EIR at pp. 4.9-1; see also pp. 4.9-21 – 4.9-22.)

The Draft EIR's definition of "CEQA-Defined Status Special Species" appears to be an attempt to bootstrap unlisted "candidate" and "sensitive" species into CEQA's definition of "rare" or "endangered" species as defined in CEQA Guidelines sections 15065 and 15380. Section 15065 provides that certain categories of environmental impacts are, *per se*, "significant" and therefore must be considered in an EIR, referencing projects which have "the potential to . . . reduce the number or restrict the range of an *endangered, rare or threatened species* . . ." (Emphasis added.) In turn, CEQA Guidelines section 15380 provides for a case-by-case, fact-based, determination as to whether a species is "endangered" or "rare" under section 15065.² Here, there is no evidence that a case-by-

¹ The Draft EIR's list of "CEQA-Defined Special Status Species" is lengthy. While it includes species listed on the ESA, it also includes "fish species that are considered commercially valuable" under the "Sustainable Fisheries Act of 1996" – a designation that does not appear to concern fish species that are rare or endangered, but rather fish that should be farmed. (Draft EIR at pp. 4.9-22 – 4.9-23.)

² "[a] species of animal or plant is:

(1) 'Endangered' when its survival and reproduction in the wild are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors; or
999991128237v3

O-13a

Charles J. McKee
January 7, 2009
Page 3

case, fact-based analysis has been undertaken in order to determine whether the species listed in the Draft EIR as "CEQA-Defined Special Status Species" qualify under Section 15380 to be treated as "rare" or "endangered" species.

The Draft EIR's failure to comply with CEQA Guidelines section 15380 by simply assuming that potential impacts to all unlisted "candidate" and "sensitive" species must be considered in the EIR is in direct conflict with established case law. In *Sierra Club v. Gibroy* (1990) 222 Cal.App.3d 30, the Court of Appeal held that evidence that a species is a "candidate" species or "species of special concern" is not sufficient evidence to consider that species to be "rare" or "endangered" under section 15380.

In *Sierra Club*, the petitioners argued that the lead agency should have determined, pursuant to CEQA Guidelines section 15380, that the California Tiger Salamander was a "rare or endangered" species. However, the Salamander was only designated as "a 'Category 2 candidate' species, meaning that there [was] insufficient biological data available to justify listing the species as threatened, and by [CDFG] as a species of 'special concern,' meaning that the species has a declining population and is being monitored for future listing." (*Id.* at 37.) The petitioners argued that this information alone was sufficient to require the lead agency to treat the Salamander as "rare" or "endangered" under Section 15380. They also argued that CEQA Guidelines section 15380 imposed an affirmative duty on lead agencies to determine whether a species not formally listed as rare or endangered should be declared rare or endangered for purposes of environmental analysis under CEQA. (*Id.* at 47.)

The Court of Appeal rejected both arguments. First, it held that evidence that a species is a "candidate" or "species of special concern" is not sufficient to consider the species to be "rare" or "endangered" under CEQA Guidelines section 15380. (*Id.*) Second, it noted that section 15380 was "directory," rather than "mandatory," in character. The court quoted from the California Resources Agency's "Discussion" following section 15380, which states that "[t]he section also provides that a plant or animal *may* be treated as rare or endangered even if it has not been placed on an official list." (*Id.* (emphasis in original).) Therefore, the Court held that while a lead agency may choose to conduct a factual analysis as to whether a specific unlisted species meets the definition of "rare" or "endangered" set forth in section 15380, they are not required to do so.

(2) 'Rare' when either:

(A) Although not presently threatened with extinction, the species is existing in such small numbers throughout all or a significant portion of its range that it may become endangered if its environment worsens; or

(B) The species is likely to become endangered within the foreseeable future throughout all or significant portion of its range and may be considered 'threatened' as that term is used in the Federal Endangered Species Act.

99999128237-3

O-13a

Charles J. McKee
January 7, 2009
Page 4

Therefore, here, although the County would not be precluded, in its policy-making discretion, from directing the preparers of the EIR to consider whether unlisted species are rare or endangered, any such determination in the EIR must be supported by specific facts which demonstrate why the species in question satisfies the standards of CEQA Guidelines section 15380. Here, the Draft EIR contains no such evidence, instead (just as the petitioners in *Sierra Club v. Gibroy* attempted to) relying only on the fact that an unlisted species is a "candidate" and "sensitive" species. Further, it does not appear that the County has issued a direction that EIRs should be prepared using such a broad definition of Special-Status Species. Rather, by proposing to adopt a General Plan with a definition of Special-Status Species that is confined to only those species listed in the ESA or the CESA, it appears that the County has issued a contrary policy directive.

Finally, as demonstrated by *Sierra Club v. Gibroy*, it is appropriate under CEQA for the 2007 General Plan, and its attendant EIR, to limit consideration of potential impacts of development to those species that are listed as threatened or endangered pursuant to the ESA or rare, threatened or endangered under CESA. There is no requirement in CEQA, and specially none in CEQA Guideline section 15380, that a lead agency conduct a broader evaluation of potential impacts to special status species.

The Draft EIR Employs a Standards of Significance Concerning Candidate and Sensitive Species That Is Not Required By CEQA or the CEQA Guidelines.

In addition to considering the questions regarding the Draft EIR's use and application of the term "CEQA-Defined Special Status Species," we also note that the Draft EIR's Biological Resources section relies on a list of standards of significance borrowed from the "Environmental Checklist Form" contained in Appendix G of the CEQA Guidelines, standards which include a question as to whether the 2007 General Plan will substantially adversely impact species that are "identified as a candidate, sensitive, or special status species." (Draft EIR at p. 4.9-55.) But the Checklist does not contain mandatory standards of significance under CEQA. While it includes some environmental inquiries that can be read as mandatory, it also reflects that there are distinctions between species that are formally listed under ESA or CESA as "threatened" or "endangered," on one hand, and species that are only "identified as a candidate, sensitive, or special status species," on the other.

Appendix G includes language stating that though lead agencies "should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected," the Checklist "is only a *suggested* form, and lead agencies are free to use different formats." (CEQA Guidelines, Appendix G, "Evaluation of Environmental Impacts," item 8 [emphasis added]; see also *Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal. App.4th 357, 376, FN 21 ["Use of the forms is only 'suggested,' and the forms do not define the scope of the CEQA inquiry"].) Impacts to formally listed rare, threatened, or endangered species are addressed near the end of the checklist, under heading XVII, which is entitled, "Mandatory Findings of Significance." Species that do not merit formal protection under ESA or CESA are referenced elsewhere in the Checklist, under heading IV, "Biological Resources." Under this heading the Checklist contains a suggested question as to whether a project would "have a

99999128237-3

O-13a

Charles J. McKee
January 7, 2009
Page 5

substantial adverse effect, either directly or indirectly or through habitat modification, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by [CDFG] or [USFWS].” (CEQA Guidelines, Appendix G, “Sample Question[s],” § IV, question (a).) Accordingly, while it can be argued that, under Appendix G of the CEQA Guidelines, an EIR must inquire as to whether a project will impact formally listed rare, threatened, or endangered species, Appendix G considers inquiries regarding potential impacts to “candidate, sensitive, or special status species” as only a suggestion.

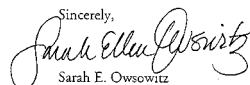
3

Therefore, again, although the County is not precluded, in its policy-making discretion, from directing the preparers of the EIR to apply a threshold of significance that considers potential impacts to “candidate, sensitive, or special status species,” the application of such a threshold is not mandated by CEQA or by the CEQA Guidelines. Further, by proposing to adopt a General Plan with a definition of Special-Status Species that is confined to only those species listed in the ESA or the CESA, it appears that the County has already signaled a contrary policy directive.

Conclusion

Based on the forgoing, and particularly given the lack of discussion supporting the Draft EIR’s assertions as to what constitutes a “CEQA-Defined Special Status Species,” we believe it would be appropriate for the Draft EIR’s discussion and analysis of Special Status Species to be revised in a manner that is consistent with the policy direction provide by the County, namely based on the definition of Special Status Species contained in the 2007 General Plan. Consistent with that approach, it would also be appropriate for the standards of significance applied in the Draft EIR’s Biological Resource section to be confined to standards which analyzing potential substantial adverse impacts to Special Status Species as defined in the 2007 General Plan. It is appropriate under CEQA for the 2007 General Plan, and its attendant EIR, to limit consideration of potential impacts of development to those species that are listed as threatened or endangered pursuant to the ESA or rare, threatened or endangered under CESA.

4

Sincerely,

Sarah E. Owsowitz

cc: Alana Knaster, Deputy Director, Resource Management Agency
Wendy S. Strimling, Deputy County Counsel
Carl Holm, Assistance Director of Planning

999991128237-3

From: Origin ID: APCA (415) 392-4200
Christine Tajada
Cox Castle & Nicholson
355 California Street 10th Fl
San Francisco, CA 94104

SHIP TO: (415) 282-9122
Carl Holm, Asst Director Planning
County of Monterey
188 W ALISAL ST FL 3
SALINAS, CA 93901



Ship Date: 07JAN09
Activity: 1018
CAD: 75281227NET8051
Account: S*****

Delivery Address Bar Code


Ref #: 50959
Invoice #
PO #
Dept #

TRK# 7972 3288 5596
0201

THU - 08JAN AA
PRIORITY OVERNIGHT

93901
CA-US
OAK

WA MRYA



After printing this label:
1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

Warning: Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income, interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

O-13a

O-13b

**HORAN, LLOYD, KARACHALE, DYER, SCHWARTZ,
LAW & COOK
INCORPORATED**

P. O. Box 5240, Monterey, California 93942-3240
www.horancook.com

February 9, 2009

Monterey County
Planning and Building
Inspection Administration
File No. 4068.02

FEB 10 2009
RECEIVED
rec'd by e-mail 2/10/09 1:21 pm

LAURENCE P. HORAN
FRANCIS P. LLOYD
ANTHONY F. KARACHALE
STEPHEN W. DYER
GARY D. SCHWARTZ
MARK A. BILDM
MARK A. O'CONNOR
ROBERT E. ANNOLLI
ELIZABETH C. GIANDOLA
APARISH I. JEFFERS
PAMELA N. BILKOWOOD
MICHAEL P. BURNS
AUSTIN C. BRADLEY

JAMES J. COOK
DENNIS M. LAW

TELEPHONE: (831) 375-4131
FROM SALINAS: (831) 754-4211
FACSIMILE: (831) 774-4302

Via Electronic and Regular Mail
Alana Knaster
Carl P. Holm, AICP
Monterey County
Resource Management Agency
168 W. Alisal Street, 2nd Floor
Salinas, CA, 93901

Re: Comment to Biological Resources Section of the DEIR

Dear Alana:

This letter is written on behalf of the Cattlemen's Association. The purpose of this letter is to comment on Section 4.9, Biological Resources, of the 2007 General Plan's Draft Environmental Impact Report ("DEIR"). As discussed in detail below, we request that (1) the EIR adhere to the scope of the Project, i.e., the adopted 2007 General Plan, by using the General Plan's definition for "special status species", or if non-listed species are to be included, they must be qualified in accordance with CEQA Guidelines section 15380 by meeting the criteria for "endangered" or "rare" (i.e., threatened) species based on substantial evidence; and (2) remove all discussion of databases and inventories prepared by non-profit organizations, including the California Native Plant Society and the California Natural Diversity Database, because these have no formal legal status and are contrary to the approved scope of work.

First, the DEIR impermissibly strays away from the defined "Project" scope by broadening the special-status species definition in the adopted 2007 General Plan. The DEIR acknowledges that the General Plan Glossary defines "special-status species" as species that are listed and protected by the federal and California Endangered Species Act, and yet, the environmental consultant broadens this definition in the DEIR by stating, "For this EIR, CEQA-defined special-status species are defined to include both listed and non-listed species that are candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS or that otherwise meet the definitions of rare or endangered under CEQA based on substantial evidence. (State CEQA Guidelines Section 15380.)" (DEIR, p. 4.9-1.)

It is important to note at the outset that the CEQA Guidelines section 15380 is intended to be directory rather than mandatory. *Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 47 (where the court found the City's conclusion that the California tiger salamander was not a threatened species was supported by substantial evidence on the record). Furthermore, courts

O-13b

HORAN, LLOYD, KARACHALE, DYER, SCHWARTZ, LAW & COOK, INCORPORATED

Alana Knaster
Carl P. Holm, AICP
Monterey County
February 10, 2009
Page 2

have made it clear that an evaluation of the environmental effects of a project need not be exhaustive (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437,1467) and that CEQA does not require a lead agency to conduct every test and perform all research to evaluate the impacts of a proposed project (*Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1395; CEQA Guidelines §15204, subdv.(a).) That is, the agency has the discretion to reject additional research. *Ibid.* Here, the County permissibly limited the definition of special-status species to formally listed species with legal status only, and thus, the scope of the EIR was also specifically and permissibly defined and limited. Yet, the EIR consultant impermissibly strayed beyond this scope.

The EIR consultant then took another step to further broaden the definition even beyond the definition/limitation it set forth for itself in the introduction of the Biological Resources Section, i.e., non-listed species that meet the requirement of CEQA Guidelines section 15380 based on substantial evidence. For non-listed species, section 15380(d) specifically provides the following: "A species not included in any listing identified in subdivision (c) shall nevertheless be considered to be endangered, rare, threatened, if the species can be shown to meet the criteria in subdivision (b)." Under subdivision (b) for unlisted species, a species of animal or plant is considered "endangered" when its survival and reproduction in the wild is in *immediate jeopardy* from one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors; or "rare" when either: (1) although not presently threatened with extinction, the species is existing in such small numbers throughout all or a significant portion of its range that it may become endangered if its environment worsens; or (2) the species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range and may be considered "threatened" as that term is used in the Federal Endangered Species Act. (Emphasis added.) "Threatened species" is defined under the Federal ESA as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." 16 U.S.C. 1532(20). The focus for unlisted species subject to permissive protection under CEQA Guidelines section 15380 is based on whether the species is (1) in immediate jeopardy or (2) is likely to become endangered within the foreseeable future.

Relevant parts of section 15065(a) of the CEQA Guidelines state, "a project has a significant effect on the environment if it will substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below *self-sustaining levels*; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an *endangered, rare or threatened species*." (Emphasis added.) Again, the focus is on protecting species that may become threatened or endangered (i.e., eliminated) within the foreseeable future.

Accordingly, courts have further defined "special status species" for the purpose of CEQA as "species that are either declining at a rate that could result in listing or historically

HORAN, LLOYD, KARACHALE, DYER, SCHWARTZ, LAW & COOK, INCORPORATED

O-13b

Alana Knaster
Carl P. Holm, AICP
Monterey County
February 10, 2009
Page 3

occurred in low numbers, and known threats to their persistence currently exist.” See e.g. *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1466.

Courts have also noted that “endangered, rare or threatened species” under CEQA Guideline section 15065 is sufficiently distinct from “sensitive” species and a California species of “special concern” and the two should not be treated as same under CEQA. In *Defend the Bay v. City of Irvine* (2004) 119 Cal. App.4th 1261,1277¹, the court stated that the administrative record characterized the Western Spadefoot Toad as a “sensitive” species and a California species of “special concern” and there is no suggestion that this designation was the same thing as endangered, rare or threatened species under CEQA Guideline section 15065. Furthermore, the court assumed that the different labels were attached for a reason and concluded that the petitioner did not sufficiently address this distinction. *Defend the Bay v. City of Irvine* (2004) 119 Cal. App. 4th at 1277.

Rather than adhering to the definition in the 2007 General Plan for special status species, the EIR consultant impermissibly broadened the definition of special status species to include

1. *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261 was further explained in *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 792 (Footnote 12) as follows:

“Our statement in *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1273-1274 [15 Cal.Rptr3d 176], that a project is deemed to have a significant impact on the environment as a matter of law if it reduced the habitat of a wildlife species, or reduces the number or range of an endangered, rare, or threatened species, was not intended as exhaustive list of the components of “significant impact,” but rather a compilation of the effects which rendered that particular EIR inadequate. It cites Guidelines section 15065, which lays out additional mandatory findings of significance.” (Emphasis Added.)

The *Endangered Habitats League* court stated that the EIR’s “threshold of significance” was too lenient, because it failed to include the entire section 15065 mandatory findings of significance. The EIR limited the “threshold of significance” to a test of “substantial effect” on enumerated species, whereby “substantial effect” was defined as: “significant loss or harm of a magnitude... 1) would cause species or a native plant [or] animal community to drop below self-perpetuating levels on a statewide or regional basis; or 2) would cause a species to become threatened or endangered.”

As stated in the body of this letter, relevant parts of section 15065(a) of the CEQA Guidelines state, “a project has a significant effect on the environment if it will substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species.”

In essence, the EIR, in the *Endangered Habitats League* case, should have included all of the above section 15065 mandatory findings of significance. That is, the EIR failed to include the following thresholds of significance in accordance with section 15065: (1) substantially reduce the habitat of endangered or rare (i.e., threatened) species (in accordance with the definition in section 15380) and (2) substantially reduce the number or restrict the range of an endangered, rare or threatened species.

This case presents no new information than what has already been discussed in the body of this letter.

499 VAN BUREN STREET
MONTEREY, CALIFORNIA 95940

HORAN, LLOYD, KARACHALE, DYER, SCHWARTZ, LAW & COOK, INCORPORATED

O-13b

Alana Knaster
Carl P. Holm, AICP
Monterey County
February 10, 2009
Page 4

species listed on the California Native Plant Society and the California Natural Diversity Databases. Case law has established that the duty to designate a plant or animal species as rare or endangered has been delegated under the California Endangered Species Act to the Fish and Game Commission (Fish & G. Code, 2070) and under the federal Endangered Species Act jointly to the Secretaries of Interior and Commerce. See, e.g. *Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30. The California Native Plant Society and the California Natural Diversity Databases are not prepared by these public agencies, but rather prepared and updated by non-profit organizations. The main problem with the databases created by non-profit organizations is that, unlike a public agency, these organizations are not subject to the scrutiny afforded by procedural due process. Also, unlike a public agency, there is no requirement imposed on these non-profit organizations to support their decisions, i.e., their listings, based on substantial evidence or, for that matter, any evidence.

The California Department of Fish and Game (“DFG”) has a partnership with these non-profit organizations, and the DFG’s Biogeographic Data Branch maintains a “species of special concern” designation based on the California Natural Diversity Database. However, the DFG cautions that its species of special concern designation “is an administrative designation and carries no formal legal status.” (Species of Special Concern: A Brief Description of Important California Department of Fish and Game Designation, www.dfg.ca.gov/wildlife/species/sse/birds.html.) Utilizing non-profit organizations to list species in these “semi-private” databases, in essence, circumvents the public notice and hearing process set forth by procedural due process. These databases do not carry the same weight as the formal listing. The environmental consultant’s determination to give them equal weight in the DEIR contrary to the scope of work was improper and certainly not compelled by law.

Accordingly, the DEIR should not rely on these databases and inventories to identify permissively protected species under CEQA Guidelines section 15380, because the listings in the databases circumvent procedural due process, contravene the approved scope of work, there is no requirement of substantial evidence, or for that matter, any evidence to support the listings, and the listings do not carry formal legal status.

Conclusion

Based on the foregoing, the Cattlemen’s Association requests the following:

- (1) The EIR adhere to the approved scope of work by using the definition in the adopted 2007 General Plan Glossary for “special-status species,” or if non-listed species are to be included, they must be qualified in accordance CEQA Guidelines section 15380 by meeting the criteria for “endangered” or “rare” (i.e., threatened) species based on substantial evidence; and

499 VAN BUREN STREET
MONTEREY, CALIFORNIA 95940

O-13b

HORAN, LLOYD, KARACHALE, DYER, SCHWARTZ, LAW & COOK, INCORPORATED

Alana Knaster
Carl P. Holm, AICP
Monterey County
February 10, 2009
Page 5

(2) The EIR remove all discussions of databases and inventories having no legal status, such as the California Native Plant Society and the California Natural Diversity Databases, because there is no evidence that the listing in these databases is supported by substantial evidence.

4

We appreciate this opportunity to comment on the DEIR.

Respectfully submitted,

Pamela H. Silkwood

cc: Scott Violini

499 VAN BUREN STREET
MONTEREY, CALIFORNIA 93940

O-14a 47



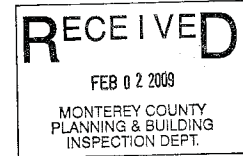
Monterey County Farm Bureau

Mailing address: P. O. Box 1449, Salinas, California 93902, USA
Street address: 931 Blanco Circle, Salinas, California 93901, USA
Telephone 831/751-3100 E-Mail MCFB@MontereyCFB.com - FAX 831/751-3167
Visit our website at www.MontereyCFB.com

November 13, 2008

Carl P. Holm, AICP
County of Monterey
168 W. Alisal Street
Second Floor
Salinas, CA, 93901

Subject: Comments on Draft Environmental Impact Report
to General Plan Update 5



Dear Mr. Holm:

Monterey County Farm Bureau offers the following comments and recommendations both for itself as a private nonprofit association and on behalf of its members, who are farmers and ranchers in Monterey County. Our comments and recommendations are directed at the Draft Environmental Impact Report prepared for General Plan Update 5.

In general we note some overarching concerns about the DEIR and about the mitigations it recommends.

- The mitigations recommended in the Biological Resources section of the DEIR would impose significant new burdens on rural land owners and create obstacles to the viability of agriculture. The confluence of biological surveys, habitat conservation plans and protections for non-listed species and non-designated habitats would add huge new costs, create uncertainty about future opportunities, and restrict agricultural operations. Both individually and collectively, these mitigations will lead to the diminishment of agriculture and the conversion of farm lands to non-farm uses. 1
- The DEIR relies on outdated housing numbers from the Association of Monterey Bay Area Governments. These outdated numbers, developed in the midst of a housing bubble and while housing both in terms of prices and demand were, we now know, significantly overstated. The DEIR ignores revised numbers that were available to the consultant and that present a significantly changed picture of growth needs. It follows that all of the findings of significant impacts in the DEIR are similarly overstated and therefore unsupported. Once we recognize this flaw in the DEIR, we find many of the DEIR conclusions and mitigations, particularly in the Biological Resources section, to be without merit. 2
- The DEIR incorrectly instructs the County of Monterey that the county has obligations to extend protection to species that have not been listed under the 3

1

O-14a

federal or state Endangered Species Act and to habitat that has not been designated under the federal Endangered Species Act. This instruction incorrectly describes the county's authority to make legislative decisions about whether to extend protections to certain species and habitats. The DEIR should acknowledge current case law on point that limits the scope of the definition. Case law defines special status species as: A "special status species" includes species that are either "declining at a rate that could result in listing or historically occurred in low numbers, and known threats to their persistence currently exist." (Save Round Valley Alliance v. County of Inyo (2007) 157 Cal. App. 4th 1437, 1465).

- The DEIR speculates about impacts beyond the General Plan's 2030 planning, theorizing that "new threats ... may arise in the more distant future beyond 2030 that are not currently anticipated." It is both unrealistic and beyond the law to require the county to mitigate for impacts based purely on speculation about unanticipated impacts. The planning horizon of the General Plan should not go beyond 2030. Planning limitations and mitigation requirements beyond 2030 are both unnecessary, and highly speculative. In addition, case law clearly states that mitigation measures cannot be deferred until some future time. Since the county cannot predict the future nor future project impacts, they cannot require future mitigation measures.

We also offer our comments on these topics in the DEIR:

Endangered Species

The Draft Environmental Impact Report says:

"Endangered Species - A species of animal or plant whose prospects for survival and reproduction are in immediate jeopardy from one or more causes. Habitats for endangered species are protected under the Federal Endangered Species Act and the California Endangered Species Act."

Comments on this definition:

Farm Bureau believes this definition obscures the process described in the Endangered Species Act for determining whether a species should be listed as a threatened or endangered species and for designating critical habitat. This is likely to mislead county government to require protections for species and habitats that are beyond the requirements in federal law. Excessive restrictions will unduly burden agriculture.

The abbreviated definition of "endangered species" in the DEIR is different from the definition in the Endangered Species Act, Title 16, Section 1532, which says, "the term 'endangered species' means any species which is in danger of extinction throughout all or a significant portion of its range"

The context of these two definitions is important. The definition in the Endangered Species Act is immediately followed by the detailed process of scientific evidence, review and public comment that leads to a formal listing. The definition in the DEIR implies that the Board of Supervisors may use the definition to conclude that species should be protected, without regard for whether those species have been listed.

3

4

5

2

O-14a

Farm Bureau believes the DEIR supplies an incomplete explanation of protected habitat, specifically referring only to "habitats for endangered species," but not using the proper term, "critical habitat." This incomplete explanation appears likely to mislead county government to impose restrictions on private land that are beyond the requirements in federal law. Excessive restrictions will unduly burden agriculture.

The incomplete explanation of habitats protected under federal law is very different from the definition in the Endangered Species Act, Title 16, Section 1532, which says,

"(5) (A) The term 'critical habitat' for a threatened or endangered species means—

"(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 1533 of this title, upon a determination by the Secretary or biological features

"(I) essential to the conservation of the species and

"(II) which may require special management considerations or protection; and

"(ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 1533 of this title, upon a determination by the Secretary that such areas are essential for the conservation of the species.

"(B) Critical habitat may be established for those species now listed as threatened or endangered species for which no critical habitat has heretofore been established as set forth in subparagraph (A) of this paragraph.

"(C) Except in those circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied by the threatened or endangered species."

By avoiding the correct term "critical habitat," the DEIR also avoids reference to the Endangered Species Act's provisions that, under most circumstances, designated critical habitat may not include all potential habitat and that economic impacts are a significant part of critical habitat designation.

Without these details, the county may be misled into attaching undue weight to the DEIR's mitigation requirements for species and habitats that have not been listed or designated under law.

In the course of its work to create a General Plan Update, the county has applied the terms "species listed as threatened or endangered under the federal or state Endangered Species Act" and "designated critical habitat."

It is important to note that the ESA defines critical habitat as the specific areas containing features essential to the conservation of the species, and that may require "special management considerations or protection." Critical habitat is generally limited to the geographical area occupied by the species at the time it is listed. Additionally, critical habitat designation is required only to the "maximum extent prudent and determinable." Also, requirements for critical habitat, as defined under the ESA, do not apply to citizens engaged in activities on private land that do not involve a federal agency. These restrictions on critical habitat need to be acknowledged and the DEIR should either apply ESA definitions to the term "critical habitat" or create their own definition for the term to provide clarity and correct legal obligations.

Creation of a Habitat Conservation Plan would impose new burdens on agriculture, either through restrictions on activities or through mitigation fees. While the effects of critical habitat require a nexus with a federal agency or permit, we know that many farms and ranches may have such a nexus without realizing it. For example, many land owners cooperate with the federal Natural Resources Conservation Service on water quality projects. There is interest in developing federal regulations for food safety protection that could create a federal nexus for all vegetable producers in Monterey County. Inclusion in a Habitat Conservation Plan could result in limits on cultivation or conservation practices where they involve identified habitat or could require

5

3

O-14a

added cost and delays for biological surveys. Also, the potential risks of creating a federal nexus could have a chilling effect on cooperative programs that involve federal agencies.

Monterey County Farm Bureau recommendation:

Recommended that the county continue to use the terms "species listed as threatened or endangered under the federal or state Endangered Species Act" and "designated critical habitat."

All recommended biological mitigations should be evaluated based on these legally appropriate terms.

The county should reject recommendations to extend new protection to species that are not listed under law or to restrict private land to preserve habitat that is not designated under law. If the county chooses to protect non-listed species or non-designated habitat, the county should seek independent counsel.

Habitat Conservation Plans

The Draft Environmental Impact Report says:

"Habitat Conservation Plan (HCP) - A program prepared in accordance with the Federal Endangered Species Act that is designed to extend protection provided for endangered species to all sensitive habitat in a prescribed area."

Comments on this definition:

The DEIR presents an oversimplified definition of Habitat Conservation Plans. It may mislead county government about the county's obligations under the Endangered Species Act and about the cost and complexity of implementing a Habitat Conservation Plan.

The definition suggests the sole purpose of a Habitat Conservation Plan is to extend protection for endangered species. It omits the purpose of allowing incidental take of a listed species, which is the primary incentive for a Habitat Conservation Plan. Incidental take is a useful tool in locations where a listed species is prevalent and likely to interfere with farm operations.

The DEIR is lacking in details regarding the requirements and scope of an HCP. Section 10 of the Endangered Species Act authorizes states, local governments, and private landowners to apply for an Incidental Take Permit for otherwise lawful activities that may harm listed species or their habitats. To obtain a permit, an applicant must submit a Habitat Conservation Plan (HCP) outlining what he or she will do to "minimize and mitigate" the impact of the permitted take on the listed species. The principle underlying the Section 10 exemption from the ESA is that some individuals of a species or portions of their habitat may be expendable over the short term, as long as enough protection is provided to ensure the long term recovery of the species.

The DEIR definition may mislead the county to believe it has an obligation to impose a Habitat Conservation Plan for the protection of species. It may also mislead the county about its opportunity to allow incidental take where occurrence of a listed species interferes with agriculture.

5

6

4

O-14a

Monterey County Farm Bureau recommendation:

The definition of Habitat Conservation Plan should be amended to read:

"Habitat Conservation Plan (HCP) - A plan prepared in accordance with Section 10 of the Federal Endangered Species Act to allow incidental take of a listed threatened or endangered species."

Mitigation Measure BIO-1.1

Baseline Inventory

The Draft Environmental Impact Report says:

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

"The County shall expand the inventory of listed species suitable and critical habitat required by Policy OS 5.1 and OS-5.2 to include an updated vegetation land cover map, identification of suitable habitat for CEQA-defined special status species (as defined in this document), sensitive natural communities, and riparian habitat in Monterey County. The inventory shall include wetlands inventory as feasible based on existing data sources and aerial interpretation. This inventory should be updated at a minimum of ten-year intervals. The inventory can exclude areas that are not under the control of Monterey County (e.g., cities, state and federal lands)."

Comments on BIO-1.1:

Monterey County Farm Bureau believes the requirement for survey and protections will significantly impact the viability of agriculture.

The DEIR does not provide justification for requiring an inventory update at ten-year intervals. The inventory would, in practice, be an incremental, ongoing process as information from permit reviews becomes available.

The requirement to inventory species and habitat is equivalent to the requirement for listed threatened and endangered species and would create an unnecessary burden for agricultural activities and land use. This is tantamount to the county making listing decisions for species that have not been formally listed under either ESA or CESA and doing so without the equivalent due process of scientific and public comment. It would essentially eliminate any distinction between listed and unlisted species. It would prevent the county from making decisions based on future situations.

The significant impacts to agricultural land use that would result from this definition underscore the problems caused by an unsupported definition of special status species. As noted above, the DEIR should use the correct definition of special status species found in the ESA and CEQA and should acknowledge current case law on point that limits the scope of the definition.

The unnecessary protection of nonlisted and undefined species will impose new burdens on agriculture, for fees, biological surveys, permits and habitat preservation. In Farm Bureau's

6

7

5

O-14a

the permitted take on the listed species. The principle underlying the Section 10 exemption from the ESA is that some individuals of a species or portions of their habitat may be expendable over the short term, as long as enough protection is provided to ensure the long term recovery of the species.

The unnecessary creation of a Salinas Valley Habitat Conservation Plan will impose inevitable new burdens on agriculture, for fees, biological surveys, permits and habitat preservation. The Endangered Species Act does not mandate creation of a Habitat Conservation Plan.

In Farm Bureau's opinion, this Habitat Conservation Plan requirement would pose a significant new impact on agriculture that could diminish farming in the Salinas Valley.

Monterey County Farm Bureau recommendation:

Recommend that supervisors find that the San Joaquin kit fox is already protected under federal law, that critical habitat has been designated elsewhere, and that no further protections are needed.

This mitigation should be removed from the DEIR.

**Mitigation Measure BIO-1.3
Project Level Survey and Avoidance**

The Draft Environmental Impact Report says:

"Mitigation Measure BIO-1.3: Project Level Biological Survey and Avoidance, Minimization, and Compensation for Impacts to CEQA-defined Special-Status Species and Sensitive Natural communities.

"The County shall require that any development project that could potentially impact a CEQA-defined special status species or sensitive natural community shall be required to conduct a biological survey of the site. If CEQA-defined special-status species or sensitive natural communities are found on the site, the project biologist shall recommend measures necessary to avoid, minimize, and/or compensate for identified impacts to CEQA-defined special-status species and sensitive natural communities. An ordinance establishing minimum standards for a biological report shall be enacted. This policy shall only apply to the following:

- "Development in Focused Growth Areas (Community Areas, Rural Centers and Housing Overlays
- "Development requiring a discretionary permit
- "Large scale wineries in the AWCP."

Comments on BIO-1.3:

The DEIR incorrectly describes nonlisted species as requiring protection – avoidance, minimization or mitigation – similar to that required for listed or threatened or endangered species. The California Natural Diversity Database is a constantly-evolving collection of field

8

9

7

O-14a

information that does not meet the same kind of due process that is required for listed threatened and endangered species.

The DEIR will mislead county government to believe it is required to impose protections for nonlisted species that are similar to those for listed species. This unnecessarily confuses nonlisted and listed species.

There is no accompanying definition of special status species or sensitive natural communities. The DEIR does not present substantial evidence that current law requires ESA-level protection for these nonlisted and undefined species.

The significant impacts to agricultural land use that would result from this definition underscore the problems caused by an unsupported definition of special status species. As noted above, the DEIR should use the correct definition of special status species found in the ESA and CEQA and should acknowledge current case law on point that limits the scope of the definition.

Biological surveys for specific species can be calendar based or require lengthy study that would significantly delay projects, including agriculture-related projects that require permits.

Without a clear definition of development that excludes agriculture, this policy would impact agricultural viability.

The unnecessary protection of nonlisted and undefined species will impose new burdens on agriculture, for fees, biological surveys, permits and habitat preservation. In Farm Bureau's opinion, this mitigation would pose a significant new impact on agriculture that could diminish farming in the Salinas Valley. The specific requirement for large-scale wineries in the Agriculture and Winery Corridor Plan would undermine the intended incentives in that plan and would prevent development of the Winery Corridor.

Monterey County Farm Bureau recommendation:

Reject this mitigation as economically infeasible, unsupported by substantial evidence, and inconsistent with policies in the General Plan Update.

**Mitigation Measure BIO-1.4
Focused Growth Areas**

The Draft Environmental Impact Report says:

"Mitigation Measure BIO-1.4: By 2030, prepare an Update to the General Plan to identify expansion of existing focused growth areas and/or to identify new focused growth areas to reduce loss of natural habitat in Monterey County

"The County shall update the County General Plan by no later than January 1, 2030 and shall consider the potential to expand focused growth areas established by the 2007 General Plan and/or the designation of new focused growth areas. The purpose of such expanded/new focused growth areas would be to reduce the loss of CEQA-defined special status species and their habitat due to continued urban growth after 2030. The new/expanded growth areas shall be designed to accommodate at least 80% of the projected residential and commercial growth in the unincorporated County from 2030 to buildout. This update will also address expansion of agricultural operations and potential impacts to CEQA-defined special-status species."

9

10

8

O-14a

Comments on BIO-1.3:

The DEIR does not identify a potential significant impact requiring this mitigation and therefore cannot conclude that an impact will be reduced to less than significance.

It is unreasonable for the DEIR to mandate a specific date for the next General Plan Update. There is no identified impact to be remedied here, and state law does not support this kind of rigid timetable.

As noted above, the planning horizon of the General Plan should not go beyond 2030. Planning limitations and mitigation requirements beyond 2030 are both unnecessary, and highly speculative. In addition, case law clearly states that mitigation measures cannot be deferred until some future time. Since the county cannot predict the future nor future project impacts, they cannot require future mitigation measures.

Monterey County Farm Bureau recommendation:

Reject this mitigation as unjustified.

Mitigation Measure BIO-1.5
NCCP

The Draft Environmental Impact Report says:

"Mitigation Measure BIO-1.5: By 2030, prepare a Comprehensive County Natural Communities Conservation Plan

"The County shall complete the preparation of a NCCP for all incorporated areas in Monterey County by no later than January 1, 2030 to address all state and federal listed species and all CEQA-defined special-status species with potential to be listed up to buildout of the County. The County shall invite the participation of the incorporated cities, the federal land agencies, Caltrans and other stakeholders. The NCCP shall also cover preservation of sensitive natural communities, riparian habitat, and wetlands, and wildlife movement corridors and include mechanisms including on and off-site mitigation ratios and fee programs for mitigating impacts."

Comments on BIO-1.5:

The DEIR speculates about impacts beyond the 2030 planning window for this General Plan Update. It acknowledges "it is impossible to know what threats CEQA-defined special-status species will face over the next 84 years." This speculation is not supported either by law or by evidence.

Listed threatened and endangered species and designated local species are already protected by the county. County policies already consider impacts to species and habitats for permitted activities.

9

O-14a

Natural Communities Conservation Planning is a voluntary program, but the DEIR mitigation presents it as an obligation on the county.

Natural Communities Conservation Planning intends to protect wildlife heritage while continuing to allow appropriate development and growth. The DEIR does not present substantial evidence that future development justifies or necessitates an NCCP. Where the county assumes future impacts, its assumptions derive from outdated AMBAG housing numbers and on speculation about conditions beyond the General Plan Update's 2030 planning window.

NCCPs are voluntary cooperative agreements. The Natural Community Conservation Planning (NCCP) The NCCP program is a cooperative effort to protect habitats and species. The program, which began in 1991 under the State's Natural Community Conservation Planning Act, is broader in its orientation and objectives than the California and Federal Endangered Species Acts. T

NCCPs should not be implemented due to speculation about future conditions. Specific evidence about the status of species and their habitat is needed prior to developing an NCCP.

Natural Communities Conservation Planning includes intent to acquire a fee or less than fee interest in lands, which would make it a competitor for available agricultural land and would distort the economics of agriculture.

The potential impacts of Natural Communities Conservation Planning on local agriculture would be unpredictable because the program uses a concept known as "adaptive management," using the results of new information gathered through the monitoring program of the plan and from other sources to adjust management strategies and practices. Land owners could never be certain about what restrictions would be imposed under the program.

Natural Communities Conservation Planning can cover listed species and nonlisted species. Its creation invites local governments and interest groups to add protections for nonlisted species for political purposes unrelated to the protection of wildlife. Unnecessary mitigations and protection for non-listed species would create new costs for agriculture for fees, biological surveys, permits and habitat preservation.

Farmers and ranchers would be excluded from direct participation in creation of a Natural Communities Conservation Plan but would bear the burdens of the resulting program. While an NCCP is being created, California Code says a "plan participant" means the agency that signed an agreement to develop the NCCP. After the NCCP is approved, "plan participants" adds the permittees – that is, the farmers, ranchers and other land owners affected by the NCCP who will need permits.

Natural Communities Conservation Planning is the functional equivalent of endangered species listing, but without the due process of the Endangered Species Act. The government agency developing the NCCP can include nonlisted species and otherwise-unregulated habitats. Once these species and habitats are included, they will be treated as though they had been designated under the Endangered Species Act. California Code specifies that the California Department of Fish and Game can seek injunctive relief against any plan participant, person, or entity to enforce the NCCP's provisions.

In Farm Bureau's opinion, this Natural Communities Conservation Planning requirement would pose a significant new burden on agriculture without substantial evidence or justification. It would create the equivalent of Endangered Species Act listing and critical habitat designations without the associated due process. This mitigation would cause major harm to agriculture.

Monterey County Farm Bureau recommendation:

Recommend this mitigation be rejected as unjustified, unnecessary and economically infeasible.

10

O-14a

Mitigation Measure BIO-2.1 Stream Setback Ordinance

The Draft Environmental Impact Report says:

"Mitigation Measure BIO-2.1: Stream Setback Ordinance

"The county shall develop and adopt a county-wide Stream Setback Ordinance to establish minimum standards for the avoidance and setbacks for new development relative to streams. The ordinance shall identify standardized inventory methodologies and mapping requirements. A stream classification system shall be identified to distinguish between different stream types (based on hydrology, vegetation, and slope, etc.) and thus allow application of standard setbacks to different stream types. The ordinance shall identify specific setbacks relative to the following rivers and creeks so they can be implemented in the Area Plans: Salinas, Carmel River, Arroyo Seco, Pajaro River, Nacimiento, San Antonio, Gabilan Creek, and Toro Creek. The ordinance may identify specific setbacks for other creeks or may apply generic setbacks based on the stream classification developed for the ordinance. The purpose of the ordinance will be to preserve riparian habitat and reduce sediment and other water quality impacts of new development.

"The Stream Setback Ordinance shall apply to all discretionary development within the County and to conversion of previously uncultivated agricultural land (as defined in the General Policy Glossary) on normal soil slopes over 15% or on highly erodible soils on slopes over 10%."

Comments on BIO-2.1:

"Development" is not defined and might apply to agricultural activities including the building of fences for food safety protection.

The paragraph on discretionary development and slope doesn't belong in this policy.

The ordinance could apply to many or all streams, including intermittent streams, and it could impose unspecified setback distances.

Yet-unspecified setbacks would create an unnecessary restriction on agriculture and private property. For example, the Salinas River is privately owned land. Farm Bureau considers any setback that denies farmers and ranchers use of their land to be a taking of private property.

Setbacks could interfere with food safety management practices, the management and movement of livestock, flood protection and streambed maintenance.

Setbacks would reduce the acreage available for producing crops and could result in lost jobs. The restriction also could decrease property tax revenue.

The DEIR does not present convincing evidence that this mitigation is justified or remedies an identified impact. The DEIR completely fails to consider the substantial impacts to agriculture and to rural land owners.

In Farm Bureau's opinion, this stream setback requirement poses a significant new burden on agriculture without substantial evidence or justification. It would take private land, compromise food safety, interfere with farm management practices and reduce crop production. It presents a serious threat to the viability of agriculture.

12

11

O-14a

Monterey County Farm Bureau recommendation:

Recommend this mitigation be rejected as unjustified, unnecessary and economically infeasible.

Mitigation Measure BIO-2.3

Riparian Habitat and Stream Flow Considerations

The Draft Environmental Impact Report says:

"Mitigation Measure BIO-2.3: Add Considerations Regarding Riparian Habitat and Stream Flows to Criteria for Long-Term Water Supply and Well Assessment.

"Public Services Policies PS-3.3 and PS-3.4 establish the criteria for proof of a long-term water supply and for evaluation and approval of new wells. The following criteria shall be added to these policies:

- "Policy PS-3.3 i-Effects on instream flows necessary to support riparian vegetation, wetlands, fish and other aquatic life including migration potential for steelhead.
- "Policy PS-3.4.g-Effects on instream flows necessary to support riparian vegetation, wetlands, fish and other aquatic life including migration potential for steelhead.

Comments on BIO-2.3:

The DEIR does not present substantial evidence of an impact that requires this mitigation.

In particular, the Salinas River, which is the principle valley aquifer, does not lend itself to this type of requirement. This is an underground aquifer. The instream flows are managed by the Monterey County Water Agency through releases from upstream reservoirs, for stated purposes.

Direct effects on instream flows in some cases may be quantifiable. However, effects on riparian habitat would be difficult and costly to assess. The cost of studies would make the cost of installing a well prohibitive. The added cost and uncertainty would limit access to water.

Farm Bureau believes this would be a political tool to deny installation of wells, unrelated to any demonstrated environmental impact.

Increased costs and restriction of water access will preclude property owners from making ordinary farming and ranching decisions. It would diminish the future viability of agriculture.

Monterey County Farm Bureau recommendation:

Shorten both Policies PS-3.3.i and PS-3.4.g to read, "Effects on instream flows."

12

13

12

O-14a

Mitigation Measure BIO-3.1 Wildlife Movement Considerations

The Draft Environmental Impact Report says:

"Mitigation Measure BIO-3.1: Project-Level Wildlife Movement Considerations.

"The County shall require discretionary projects to retain movement corridors of adequate size and habitat quality to allow for continued wildlife use based on the needs of the species occupying the habitat. The County shall consider the need for wildlife movement in designing and expanding major roadways and public infrastructure projects to provide movement opportunities for terrestrial wildlife and to ensure that existing stream channels and riparian corridors continue to provide for wildlife movement and access."

Comments on BIO-3.1:

This mitigation provides unequal treatment for private and public projects. Corridors are "required" for discretionary projects but only "considered" for public projects. The county should retain its authority to consider whether corridors are needed for any type of project.

The requirement for discretionary projects poses the possibility that wildlife corridors would be exacted from farm land owners when they seek discretionary permits, for instance for farm buildings, wineries and other farm-related development.

Farm Bureau foresees that exaction of a wildlife corridor could be a condition of a discretionary permit unrelated to the specific development covered by the permit. This could be the equivalent of a trails policy demanding access to farm land.

A requirement for wildlife corridors could conflict with and undermine food safety protections.

The policy uses subjective terms, "adequate size and habitat quality" for corridors associated with discretionary projects. This requirement would add costs to discretionary projects, including agricultural projects and related permits.

The requirement is likely to result in project developers seeking agricultural land for mitigation, creating a non-ag demand for ag land that conflicts with agricultural viability.

The mandate for discretionary projects would likely result in designated wildlife corridors within and among farm fields, which would conflict with food safety protections. Wildlife moving through county-mandated corridors could result in lost crop acreage due to required food safety buffer strips alongside these corridors and could expose the county to lawsuits seeking recovery of lost production value.

Monterey County Farm Bureau recommendation:

Revise the policy to say:

"The County shall consider the need for wildlife movement when approving discretionary projects or when designing and expanding major roadways and public infrastructure projects."

13

14

O-14a

Mitigation Measure BIO-3.2 Vegetation Removal, Bird Breeding and Nesting

The Draft Environmental Impact Report says:

"Mitigation Measure BIO-3.2: Remove Vegetation during the Nonbreeding Season and Avoid Disturbance of Nesting Migratory Birds, Including Raptors, as Appropriate (generally September 16 to January 31).

"Vegetation removed in the course of development will be removed only during the nonbreeding season (generally September 16 to January 31). Occupied nests of migratory birds, including raptors, will be avoided during this period. The county shall consult, or require the developer to consult, with a qualified biologist prior to any site preparation or construction work in order to (1) determine whether work is proposed during nesting season for migratory birds, (2) determine whether site vegetation is suitable to nesting migratory birds, (3) identify any regulatory requirements for setbacks or other avoidance measures for migratory birds which could nest on the site, and (4) establish project-specific requirements for setbacks, lock-out periods, or other methods of avoidance of nesting birds. The county shall require the development to follow the recommendations of the biologist.

Comments on BIO-3.2:

The DEIR mitigation is poorly written and confusing. The DEIR does not provide convincing evidence that there is a significant impact to justify this mitigation.

The term "avoid disturbance" could be broadly interpreted to interfere with any kind of agricultural or development activity.

The season designated for vegetation removal, September 16 to January 31, includes the rainy season when removal may be impractical.

River channel maintenance is already limited to September 1 through October 31. This new window beginning September 16 cuts the window for river channel maintenance by 25%. This added limitation could increase the likelihood of flooding, resulting in erosion, loss of crops, acreage and habitat, and food safety hazards.

While restricting vegetation removal to a narrow window, the mitigation still burdens land owners with the new cost and delay of a biological consultation. It might also limit the window in time during which biologists could conduct their studies. The potential delay, cost or restriction on ag land use would seriously impact viability of agriculture.

The window in time for Salinas River channel maintenance has been reduced to September and October. Channel maintenance is essential to maintaining the river channel and preventing floods, which would erode land, damage farm fields, compromise food safety, and threaten communities. The DEIR's arbitrary restriction to September 16 to January 31 effectively reduces the window in time for channel maintenance by 25%. This would be a significant threat to both agriculture and local communities.

In Farm Bureau's opinion, this mitigation would pose a significant new burden on agriculture without substantial evidence or justification. It would threaten the long-term viability of agriculture.

Monterey County Farm Bureau recommendation:

15

14

O-14a

Recommend this mitigation be rejected as unjustified, unnecessary and economically infeasible.

Conclusion

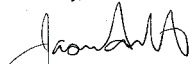
Monterey County Farm Bureau is the private, nonprofit association of farmers and ranchers throughout the county, serving agriculture since 1917.

We note that agriculture occupies the majority of private land in the county. Outside of government land and incorporated cities, agriculture is the principal land use and the environment that the county intends to protect.

Agriculture produced \$3.8 billion in 2007, to make Monterey County the third most productive food-producing county in the United States. We suggest that any county actions that impact agriculture should be considered significant impacts under CEQA. In our experience and opinion, the mitigations recommended in the DEIR and that we have addressed here pose a significant threat to the future viability of agriculture. Resulting impacts to Monterey County agriculture threaten as much as 10% of California's food production and an important share of the nation's food supply.

We urge the county to employ the recommendations we provide here.

Sincerely,


Jason Smith, President

The following individuals have endorsed the comments above by Monterey County Farm Bureau and intend to be included as signatories to this letter:

- Tom Rianda
- Christopher A. Bunn
- Jason Smith
- Jeff Pereira
- Albert Oliveira
- Kevin Plearcy
- Matt Cauley
- George Fontes
- Colby Willoughby
- Mike and Mary Orradre
- Brad Rice
- Nicholas Brockman
- Benny Jefferson
- Russ Cauley
- Larry Santos
- Robert A. Martin
- Wayne Gularte
- Robert Eli Perkins
- Bill Terp

15

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Tom Rianda

Signature Tom Rianda

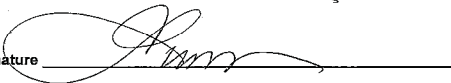
Address

Tom Rianda
PO Box 966
Gonzales CA 93926

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name CHRISTOPHER A BARR

Signature 

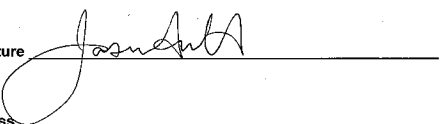
Address

510 River Road
Salinas, California 93908

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Jason Smith

Signature 


Address

37500 Foothill Road
Soledad, Ca 93960

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Jeff Percina

Signature 

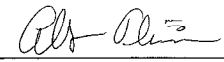
Address

613 N. Millard Ave
King City, Calif 93930

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name ALBERT OLIVEIRA

Signature 

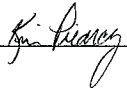
Address

P.O. Box 28
King City, Ca

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Kevin Pearcey

Signature 

Address

P.O. Box 1355 Gonzales, Ca. 93926
24102 Jacks Rd Chualar, Ca. 93925

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Matt Casley

Signature 

Address

220 Lyon St King City, CA. 93930

O-14a



P.O. Box 3098
Salinas, California 93912-3098

TELEPHONE (408) 424-6151
FAX (408) 757-7118

November 19, 2008

I am a resident of Monterey County.

I endorse the November 13, 2008 comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau.

I ask to be included as a signer of this letter.

George E. Fontes
54 Corral de Tierra Rd.
Salinas, CA 93908

* GROWERS, PACKERS AND SHIPPERS OF FRESH VEGETABLES *

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Colby Willoughby

Signature Colby Willoughby

Address

30540 COLONY Rd
Soledad, CA 93960

Nov 24 08 12:11p Mike Orndre 831-627-2658 p.1
O-14a

We are
I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name MIKE AND MARY ORNDRE

Signature Mary F. Orndre Mike Orndre

Address
67100 Argente Road
San Luis, CA 93150

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name BRAD RICE

Signature Brad R


Address
P.O. Box 686 King City, CA. 93930

16

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name NICHOLAS BROCKMAN

Signature 

Address

57 San Miguel #3
Selenas, CA. 93901

Dec. 12. 2008 9:07AM

No. 5620 P. 1

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Benny Jefferson

Signature 

Address

PoBox 56
Castroville, CA 95012

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Russ Cauley

Signature *Russ Cauley*

Address

PO Box 630
King City CA. 93930

16

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Larry Santos

Signature *Larry Santos*


Address

68305 Datura Ln.
Lockwood CA. 93932
P.O. Box 33 Lockwood CA. 93932

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Robert A. Martin

Signature 

Address

239 Rio Vista Drive
King City, CA 93930

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Wayne Gularde

Signature 

Address

Po Box 2083
Gonzales CA
93926

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Robert Eli Perkins

Signature *Robert Eli Perkins*

Address

537 Stevenson St.
Salinas, CA 93907

O-14a

I am a resident of Monterey County. I endorse the November 13, 2008, comments on the Draft Environmental Impact Report to General Plan Update 5 above by Monterey County Farm Bureau. I ask to be included as a signer of this letter:

Print name Bill Tarp

Signature *Bill Tarp*

Address

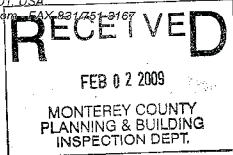
Bill Tarp
17 Lazy Oaks
Carmel Valley, CA. 93924

O-14b 48



Monterey County Farm Bureau

Mailing address: P. O. Box 1449, Salinas, California 93902, USA
Street address: 931 Blanco Circle, Salinas, California 93901, USA
Telephone 831/751-3100 E-Mail MCFB@MontereyCFB.com FAX 831/751-9167
Visit our website at www.MontereyCFB.com



February 2, 2009

Carl P. Holm, AICP
County of Monterey
168 W. Alisal Street, Second Floor
Salinas, CA, 93901

Subject: Comments on Monterey County General Plan, Draft Environmental Impact Report,
Section 4.3, Water Resources

Dear Carl Holm,

We are writing to comment on the proposed mitigation to several of the impacts identified in the Water Resources section of the DRAFT Environmental Impact Report for the Monterey County 2007 General Plan. These comments are in addition to our letter dated November 13th, 2008.

County participation in a regional water supply planning process is the mitigation proposed for identified impacts such as county water use. We agree that it is prudent and appropriate for the county to participate in regional water supply planning discussions in order to safeguard Salinas Valley water and water right permits and to be part of discussions about other water needs in the county and region. However, we are concerned about the significant environmental impacts that would result from a regional water supply plan that removes water from Zone 2C or alters water right permits that are essential to the Salinas Valley Water Project (SVWP). We wish to be very clear that we do not see this as an appropriate mitigation for water use in the county. Rather than serving as a mitigation, participation in such a plan would be an exacerbation of groundwater overdraft conditions now threatening Zone 2C. Until such a time that seawater intrusion has been permanently abated and protocols are in place to ensure it does not begin again in the future – movement of Zone 2C water or alteration of any associated water right permits out of Zone 2C should not be contemplated.

A brief look back in time will bear out that the goal of balancing the Salinas Valley water basin has yet to be achieved. In 1946, the Division of Water Resources (DWR) reported under Bulletin 52-B that conditions of seawater intrusion and overdraft already existed in the Salinas Basin. This led to the earlier version of Monterey County Water Resources Agency (MCWRA) starting operation of the Nacimiento and San Antonio reservoirs (1957 and 1967 respectively). Until the original goal of balancing the Salinas Valley basin is met and there is a sustainable and sufficient water supply for the Salinas Valley, it is not prudent to consider moving water outside of the Salinas Valley and the rest of Zone 2C. Recently, as with the earlier reservoir projects, landowners of the Salinas Valley agreed to assess themselves for the implementation of multi-million dollar local water supply solutions. For the Castroville Seawater Intrusion Project (CSIP) landowners paid to construct a new wastewater treatment plant and pipeline distribution system to provide reclaimed wastewater and blended water to groundwater pumps for irrigation. Then in 2003, the Monterey County Water Resources Agency created a new Zone 2C and won 85% voter approval for a new assessment to pay for implementation of the Salinas Valley Water Project (SVWP).

By agreeing to assess themselves for this water supply solution, Zone 2C voters took an active role in addressing their own water resource issues without reliance on water from elsewhere. Below is an excerpt from an Engineer's Report for the Salinas Valley Water Project outlining the many activities that are being funded through landowner property assessments. Landowners make these expenditures to ensure that present and future water needs of the properties they own and maintain are fulfilled.

O-14b

"The first component, operation and maintenance of the existing reservoirs, includes direct operations and maintenance of the existing facilities, along with the associated activities of maintenance of the Salinas River channel, Salinas River mouth, cloud seeding, debris clearing, data collection and management, and other administrative tasks." (Page ES-1; Salinas Valley Water Project Engineer's Report).

The SVWP was designed to serve the specific needs of Zone 2C voters and not the water needs of communities outside of Zone 2C such as the Monterey Peninsula. Zone 2C includes the Salinas Valley and the communities of Marina and portions of the former Fort Ord. One of the major goals of the SVWP is to provide a sufficient water supply to meet water needs in Zone 2C through the year 2030. This is already a daunting task given the increase in required environmental flows and would be made more difficult or impossible if water from this project or water rights associated with the project are made available outside of Zone 2C before the goal is achieved. After the year 2030 (only 21 years in the future) additional demands on water in Zone 2C can be reasonably expected. This reality makes the water right held under permit 11043 even more critical to the long-term water supply sustainability of Zone 2C.

The following is excerpted from the 2003 Engineer's Report prepared to describe the technical basis for the new tax assessment for the SVWP.

"Groundwater is the major source of water in the Salinas Valley. Groundwater demands currently exceed groundwater recharge, resulting in an overdraft condition. This basin overdraft has resulted in declining groundwater levels and seawater intrusion, which have become serious conditions for the Salinas Valley. The SVWP will allow Monterey County Water Resources Agency to meet its water supply goals for the Salinas Valley.

- *The combined goals of the SVWP are: Halting seawater intrusion;*
 - *Continuing conservation of winter flows for recharge of the Salinas Valley basin through summer releases;*
 - *Providing flood protection;*
 - *Improving long-term hydrologic balance between recharge and withdrawal; and*
 - *Providing a sufficient water supply to meet water needs through the year 2030"*
- (page 1-1; Salinas Valley Water Project Engineer's Report)

The MCWRA has communicated to the State Water Resources Control Board (SWRCB) that the SVWP is intended to provide a long-term, reliable water supply for Zone 2C and that success is linked to a water right held under permit number 11043. In a letter to the SWRCB, the Water Agency states, "...flows to be dedicated to fisheries uses requested by NOAA Fisheries may exceed 20,000 acre feet thus cementing that the water right held by MCWRA under Permit No. 11043 are an essential and integral part of the effective implementation of the Salinas Valley Water Project."

A February 19, 2001 letter from SWRCB Chair Arthur Baggett, Jr. to the House Energy and Water Development Appropriations Committee could not have said it better:

Because a local solution to this problem is deemed preferable to adjudication by the State, I urge you to support the efforts of the MCWRA in developing a workable solution to this problem. In the long run, developing and implementing a local solution will benefit all stakeholders in the Salinas Valley.

The Salinas Valley has found a local solution by supporting the SVWP and the existing water rights associated with Zone 2C which include Permit No. 11043. Together, these remain critical to the local solution which the SWRCB has encouraged.

Though we are sympathetic to the water supply challenges now facing our neighbors on the Monterey Peninsula, we must support their efforts to find their own local solution at a distance. *The SVWP and any associated water right permits designated for Zone 2C (formerly Zones 2 and 2A) must remain for the purpose of water supply within Zone 2C.*

2

O-14b

Alteration of a water right permit and expansion of the uses of water developed through the SVWP are now being contemplated by a regional water supply planning process. Such alterations will cause adverse environmental impacts.

The current Draft Environmental Impact Report for the 2007 Monterey County General Plan (DEIR) says that water use in the county has environmental impacts for which mitigations are necessary. On the contrary, the designation of Zone 2C and the exhaustive environmental review already undertaken for the SVWP are appropriate mitigations for a water use concern within Zone 2C. Other portions of the county are currently undergoing similar design, environmental review, and cost allocation efforts that are completely separate and un-related to Zone 2C's water supply solution.

Significant and unavoidable impacts would result if un-studied and unknown alterations such as diversion of Zone 2C water out of Zone 2C or changes of purpose or place of use for water rights permits were to be made. (See CEQA Guidelines section 15126, "all phases of a project must be considered when evaluating its impacts on the environment: planing, aquisition, development, and operation." See also, Pub. Resources Code, section 21098, diverting water outside of Zone 2C will have a "substantial, or potentially substantial adverse change in the environment.")

Any consideration of altering, expanding, or in any way modifying the SVWP and all existing water rights, must retain as a baseline the water supply and water rights already associated with Zone 2C. In fact, any consideration of altering the SVWP by moving water already identified as essential to this project will have significant and unavoidable environmental impacts. (See CEQA Guidelines, section 15125(c), Water resources in Zone 2C are unique to this region and will be negatively affected by possible diversion outside of the zone.)

Specific Environmental Impacts resulting from taking water away from Zone 2C or altering water right permits to allow for transfer of water outside of Zone 2C:

Project components of the SVWP were specifically designed to halt seawater intrusion for the benefit of water users in Zone 2C and include:

- Modification of the Nacimiento spillway.
- Reoperation of Nacimiento and San Antonio Reservoirs.
- Surface Diversion/Impoundment.
- Delivery pipeline
- Pumping Limitations for areas where project water is delivered

Alteration, expansion, or change to these SVWP projects designed for Zone 2C or of any water right permits associated with Zone 2C (including permit number 11043) would exacerbate seawater intrusion making the aquifers unusable for either agricultural or municipal purposes in Zone 2C. This would be a significant and unavoidable impact. It is estimated that seawater has already intruded an average of 10,000 AFY into the 180-Foot and 400-Foot Aquifers since 1949. (See CEQA Guidelines, section 15382.)

Halting seawater intrusion will be a substantial beneficial impact to groundwater quality. If water is taken away from these projects, or an existing water right forgone or altered, advancing seawater intrusion could be reasonably expected to result and threaten potable supplies for the north Valley area, and affecting the ability to continue farming in the area.

Adverse impacts to agriculture from groundwater overdraft, seawater intrusion, or the diversion of water outside of Zone 2C include, but are not limited to, un-usable, salty water or not enough water to grow crops leading to a reduction of the amount of ground that can be farmed, associated job losses and an overall degradation of the regional economic picture. (See CEQA Guidelines Appendix G altering Zone 2C water rights and/or diverting water outside of the zone for non-zone use is likely to change the existing environment which will result in the conversion of farmland to non-agricultural use.)

Urban areas, such as Marina, Castroville, Fort Ord, and Salinas could experience an inability to provide potable water to municipal users through traditional means (e.g., expensive treatment such as seawater desalination could become necessary). The impact to groundwater quality would be significant and unavoidable. Given the

O-14b

importance of groundwater to the Basin, this impact in itself, would render movement of water outside of Zone 2C unacceptable.

In addition, any movement of water outside of Zone 2C would be inconsistent with the Monterey County General Plan policies aimed at providing water to meet the County's water needs, reduce seawater intrusion, recharge groundwater, and preserve agriculture. A reduction in available water for Zone 2C would severely restrict the ability to consistently farm. A substantial reduction in crop output would be expected, either through forced fallowing of land, fewer annual planting cycles, or shifting to lower quality/lower value crops that are less water dependant. Conservation would help reduce the level of this impact, but conservation is already taking place and well documented under the Water Agency's ongoing program to record agricultural water conservation measures.

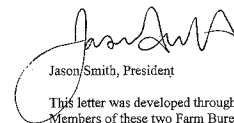
Emergency water shortages caused by the imprudence of transferring water from one over-drafted basin (Zone 2C) into other over-drafted basins within the county would also have direct impact on plant and animal species due to an increase in the number and depth of wells dug. Water quality would also be negatively impacted due to severely reduced river flows increasing concentrations of pollutant levels not currently in excedence of regulatory standards.

Further, if insufficient supplies are available for residences within Zone 2C, it is likely that growth would be severely restricted and blight could occur. (See Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184, when a lead agency is presented with credible evidence of potential environmental impacts due to possible urban decay or blight, the agency should evaluate that issue in the EIR.)

The Salinas area already exhibits one of the lowest per capita water use figures in the State. Consequently, it is unreasonable to expect that per capita water use could be substantially reduced. Finally, reversing our progress toward a long-term reliable supply of water would have unknown and unstudied secondary and cumulative impacts.

In closing, if the county does participate in a regional water supply planning process we would support the development of water supply scenarios for the Monterey Peninsula and elsewhere that do not depend upon Zone 2C projects and their infrastructure. Finding a sustainable solution for the Peninsula is both desirable and important for the future of the whole county. But that solution should not be at the expense of communities already well on our way to sustainable solutions.

Thank you for considering our comments.



Jason Smith, President

This letter was developed through the work of our Water and Land Use Committees. Members of these two Farm Bureau Committees are listed below:

Dirk Gjannini, Chris Bunn Sr., Christopher Bunn Jr., Bill Hammond, Benny Jefferson, April England-Mackie, Bill Tarp, Bob Martin, Brad Rice, Colby Willoughby, Jennifer Clarke, Gary Tanimura, George Fontes, Kevin Flearcy, Matt Panziera, Ross Jensen, Steve Storm, Scott Anthony, Tom Rianda, Wayne Gularde

O-15



Monterey Institute for Research in Astronomy

200 Eighth Street Marina, Ca 93933
(831) 883-1000 www.mira.org mira@mira.org

1 November 2008

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

Dear Mr. Holm,

This letter, in response to the request for comments on the DEIR for the 2007 Monterey County General Plan, describes an effective but overlooked mitigation available to the County to reduce the overall light and glare (Impact AES-4) during the buildout of the 2007 General Plan.

Light pollution, including trespass and glare, has a significant impact on most flora and fauna, including marine¹. Birds, amphibians, and insects are especially vulnerable but both nocturnal and diurnal mammals are also strongly affected.

The view of the night sky, once thought to be an undeniable human heritage, is so rare that a recent survey of CSUMB students revealed that 90 percent had never seen the Milky Way! Students, and even their parents, visiting the MIRA Observing Station on Chews Ridge, are often surprised to see a dark night sky filled with stars, planets, and galaxies.

The Santa Lucia Mountains of Monterey County provide one of the last high-quality dark sites in the United States for optical astronomical observations. These conditions² drove the decision to locate the MIRA astronomical observatory in Monterey County in preference to any other location in the U.S. The quality of these conditions is now being reduced by the light pollution from the growth of the Monterey Peninsula, the Salinas area and, especially, because of its proximity, the Salinas Valley.

For example, MIRA, funded by a NASA grant, has been researching zodiacal light, the reflection of sunlight off interplanetary dust, in order to decode what it tells us of the

¹ See, for example, Rich, C. & Longcore, T. 2006. *Ecological Consequences of Artificial Night Lighting*. Island Press, Washington, USA. and references therein.

² Walker, M. 1970. The California Site Survey. *Publications of the Astronomical Society of the Pacific*, 82, 672.

O-15

evolution of our solar system. Zodiacal light was easily observed over the Salinas Valley from MIRA's Oliver Observing Station on Chews Ridge in 1986. This delicate cosmic feature is now swamped by uncontrolled lighting from the rapidly growing developments in the Salinas Valley and it is now unobservable from this site.

In response to our previous letter commenting on the 2006 DEIR, it was claimed that the towns along the Salinas valley were too far away to have a significant impact. This is completely incorrect. Professional astronomers, including those in Monterey County, routinely observe cosmic objects five million times fainter than can be detected with the unaided eye. In extreme cases, we observe objects 100 times fainter than the intrinsic brightness of the unpolluted night sky. Almost all of the central Salinas Valley, from the Indian Springs development to Greenfield, is less than 20 miles from the MIRA Observatory. By comparison, the separation between Kitt Peak National Observatory and Tucson, the light from which has had a serious impact on the scientific capabilities of the national observatory, is over 40 miles.

Light pollution can be greatly reduced simply through restricting lighting and views of the light sources to only those specific onsite areas requiring illumination (Land Use Element Policy LU-1.13). Unlike most forms of pollution where the reduction increases costs, the savings in energy use *reduces* operating costs.

"Of all the pollutions we face, light pollution is perhaps the most easily remedied. Simple changes in lighting design and installation yield immediate changes in the amount of light spilled into the atmosphere and, often, immediate energy savings." V. Klinkenborg National Geographic Nov. 2008

Mitigation beyond the 2007 General Plan policies. Current light pollution levels can be substantially reduced by correcting current bad lighting practices during standard upgrades and maintenance. *In a ten year period, Tucson, while enjoying substantial population growth, reduced its light pollution to one-third its initial level through such techniques.* That is, contrary to the assertions of the DEIR, mitigation techniques can reduce the level of light pollution in Monterey County to half its current level while the population increases by 39% by year 2020. Detailed mitigation techniques are described at the web site for the International Dark Sky Association (www.darksky.org).

As a specific example, 40 percent of urban light pollution is caused by early-design street lamps such as the 'drop-lens cobra' luminaires that populate much of the County. During maintenance or replacement, they could be replaced with modern, full cut-off fixtures. *An effective and low cost technique is to attach a shield, a standard accessory for these street lights, during bulb replacement.* This technique is credited as one of the most successful in reducing the Tucson light pollution. These shields are now standardly installed when a consumer complains about light glare or trespass at a residence. A County policy would extend that remedy to the general public. This

O-15


technique alone would completely mitigate the light pollution increment due to the predicted population growth by the year 2020.

A comprehensive policy should address issues such as lighting types and levels, outdoor lighting after closing times, curfews for outdoor illuminated signs, etc. As possible detailed models, specific ordinances have been adopted in many cities and counties in the United States and abroad. In addition, astronomers at MIRA are available to work with the County to develop light pollution ordinances that would be tailored to Monterey's unique needs.

In summary:

- Increased light pollution in Monterey County will have a significant impact on flora, fauna, and the natural patrimony of its residents to view their place in our Galaxy and the Universe.
- Research and education at MIRA's Bernard M. Oliver Observing Station, located at one of the best sites for optical astronomy remaining in the continental United States, will be significantly impacted by increased light pollution in Monterey County. This will be especially true for light pollution from the Salinas Valley.
- Unlike other forms of pollution, the mitigation of light pollution in new developments saves money by reducing energy costs and, concomitantly, lowers the carbon footprint of the County.
- Techniques for substantial mitigation of light pollution in existing developments are well understood and relatively inexpensive.
- Simple shielding of existing lights and the use of approved fixtures for new lighting would *lower* the level of light pollution below its current levels even with the population increase expected by the year 2020.

Sincerely yours,



Wm. Bruce Weaver, Ph.D.
Director

O-16

63



California Regional Office
201 Mission Street, Fourth Floor
San Francisco, CA 94105

tel (415) 777-0487
fax (415) 777-0244
nature.org
nature.org/california

Carl Holm
Resources Management Agency - Planning
Salinas Permit Center
168 West Alisal
2nd Floor
Salinas, CA 93901

February 2, 2009

Re: Comments on the Draft Environmental Impact Report for General Plan Update

Dear Mr. Holm:

Monterey County Biodiversity Significance

The Nature Conservancy (the Conservancy) has played a role in conserving the globally unique biological landscapes of Monterey County for more than 40 years. The Conservancy considers Monterey County a very high priority conservation region due to the area's high biological values on a local, regional and global scale.

Monterey is at the geographic core of the California Floristic Province, a globally-important hotspot of biological diversity (Myers 2003), and one of just five Mediterranean-type regions on the planet. Mediterranean ecological regions, defined by having cool, wet winters and warm, dry summers, cover just 2% of the earth's surface yet harbor over 20% of the species diversity. However, they are critically imperiled by habitat loss, fragmentation, climate change, and biological invasions and new diseases, such as Sudden Oak Death (Hoekstra et al. 2003). A mere 4% of Mediterranean Habitat is protected globally. It is the second least protected habitat type on Earth.

Even by California standards, Monterey County is phenomenally rich. Over 2000 species of plants, 37 of which are found nowhere else on Earth, at least 178 species of birds, and myriad other species call Monterey County home (Matthews 1997, Roberson and Tenney 1993).

The County contains core habitat for many declining and threatened species, and some of the best habitat remaining in the entire Central Coast ecoregion - a geographically diverse area stretching from Sonoma County to Santa Barbara County, from the Pacific Ocean to the western edge of the San Joaquin Valley.

Monterey County is also exceptional in comparison to other areas of the state and other Mediterranean regions in that its incredible natural resources are largely intact. The General Plan is Monterey County's most important tool for ensuring the sustainable use and appropriate protection of these resources.

Monterey County
Planning and Building
Inspection Administration

FEB 02 2009

RECEIVED

Rec'd as CEQA
Comments 2/2/09
4:09 pm

O-16

A Conservancy-led biodiversity analysis in 2006 shows that Monterey County supports numerous sensitive ecological systems and associated species that do not currently have adequate levels of protection on either public or private lands. Many of these resources are largely restricted to rural rangeland areas and to steep slopes. Both rural residential development and large-scale agricultural conversion in these areas would further destroy biological systems and species that have already been highly diminished in distribution or that are not well represented within existing protected areas and parklands. Additional studies show regionally significant wildlife corridors that are likewise threatened by development and agricultural intensification (e.g. Missing Linkages Report 2001, Wilderness Coalition 2002).

TNC'S Long Term Goals

Our long-term goals in the County are to conserve areas of high biological importance and movement corridors linking these areas to other critical natural lands, including public conservation areas. Our strategies for achieving these goals are to work collaboratively with landowners, the community, and partners to: 1) acquire land and conservation easements from willing landowners in areas of high biological value, 2) keep large working rangeland landscapes intact, 3) promote land management, including ranching and agricultural practices, that are compatible with wildlife conservation, and 4) share scientific data and knowledge with community organizations and public agencies to help develop sound land-use policies that protect sensitive habitats, species and natural areas, while accommodating the needs of a growing population.

TNC's GPU Concerns

The Monterey County General Plan Update and its vision for future landuse touches on many issues relevant to TNC's long-term goals in Monterey County. We limit our comments here to two issues of special concern – rangeland habitat conservation, and protection of wildlife corridors.

1. Conservation of Sensitive Habitats supported by Rangeland

The broad, relatively unfragmented matrix of grasslands, oak savanna and woodlands and riparian areas supported by rangelands in much of Monterey County includes high quality native vegetation and wildlife and associated sensitive species. The Conservancy recognizes that compatible agricultural and ranching land uses are important in sustaining many of these biodiversity. Therefore, we strongly support policies that sustain or improve agricultural viability of the region, while protecting sensitive habitats and associated species.

We are concerned that the DEIR does not adequately address cumulative impacts of proposed policies on key rangeland areas. We urge the County to ensure that provisions intended to support or expand vineyard or other cultivation take into consideration potential conflicts with natural resource conservation goals in high quality rangeland habitats, including but not limited to oak savannas and woodlands, riparian corridors, wildlife movement corridors, and aquatic habitats supporting rare and declining species such as steelhead trout. Exemptions from CEQA review of intensive agricultural uses in proximity to sensitive habitat areas could have significant, potentially irreversible impacts. An adequate analysis of the direct or cumulative impacts of such proposed policies does not appear to have been performed in the current DEIR.

2

1

2

O-16

We are also concerned that many of the DEIRs conclusions regarding the significance of biological impacts are unsupported because the development of substantive content pertaining to policies and mitigation measures has been deferred, or because these policies and mitigation measures do not appear to be reasonably enforceable or feasible. In many cases, the policies appear to indicate that future impacts would be assessed or mitigated on a project by project basis only.

Finally, the DEIR's analysis of proposed policies relating to both non-agricultural development (e.g. rural residential development) and conversion of previously uncultivated lands to irrigated agriculture on foothill lands—both below and above 25% slopes—do not adequately address direct and cumulative impacts to biologically significant habitats, wildlife corridors and species.

2. Wildlife Movement Corridors

The Conservancy is concerned that the DEIR does not address impacts on regional and County-wide wildlife movement linkages that we believe will be highly impaired as a result of proposed policies. The County occupies a critical location relative to regional wildlife movements between major coastal and interior mountain ranges. Important movement corridors within Monterey County have been documented for the Central Coast region in at least two published studies (see Sources below). Additional knowledge is available from numerous local and regional conservation scientists, as we found in compiling our 2006 ecoregional assessment.

In addition, there is no analysis of potential direct or cumulative impacts of the proposed Agricultural Winery Corridors, which are located in areas identified in the sources cited below as critical for regional wildlife movement, including along Stage Road where the Salinas River runs adjacent to natural lands, and along River Road and Arroyo Seco Road, where equally sensitive wildlife movement corridors may exist. The direct overlap of the proposed Winery Corridors and identified regionally important wildlife movement corridors is raises serious environmental concerns and merits significantly improved analysis.

Other policies which could affect the width or function of riparian corridors should also be analyzed for potential impacts to these important linkages.

Conservation of critical wildlife movement corridors should be called out as a specific goal of appropriate policies such as: "CV-3.8: *Development shall be sited to protect riparian vegetation, minimize erosion, and preserve the visual aspects of the Carmel River. In places where the riparian vegetation no longer exists, it should be planted to a width of 150 feet from the river bank, or the face of adjacent bluffs, whichever is less.*"

A Sustainable Future

The General Plan process represents the County's best opportunity to consider current and future land use and development wisely, at a landscape-scale, looking cumulatively at potential changes in land use, particularly in currently undeveloped areas. The long-term sustainability of much of the County's wealth of natural resources and biodiversity depends on a strong, well-considered General Plan – more work needs to be done to ensure that this critical standard is met.

3

2

3


4

O-16

The Nature Conservancy urges the County of Monterey to ensure that these issues are addressed in the final Environmental Impact Report, and resolution of these issues be incorporated into the General Plan Update prior to its adoption by the Board of Supervisors.

4

Thank you,


Christina Marie Fischer
Monterey Project Director
The Nature Conservancy
99 Pacific Street
Suite 200G
Monterey, California 93940

Sources:

Penrod, K., R. Hunter and M. Merrifield. 2001. Missing Linkages: Restoring Connectivity to the California Landscape, Conference Proceedings. Co-sponsored by California Wilderness Coalition, The Nature Conservancy, U.S. Geological Survey, Center for Reproduction of Endangered Species and California State Parks.

California Wilderness Coalition July 2002. A Guide to Wildlands Conservation in the Central Coast Region of California. 144 pp.

Hoekstra, J. M., T. M. Boucher, T. H. Ricketts, and C. Roberts. 2005. Confronting a biome crisis: global disparities of habitat loss and protection. Ecology Letters 8:23-29.

Mathews, M. A. 1997. An Illustrated Field Key to the Flowering Plants of Monterey County. California Native Plant Society. 393 pp

Myers, N. 2003. Biodiversity hotspots revisited. BioScience 53: 916-917.

The Nature Conservancy 2006. California Central Coast Ecoregional Plan Update. San Francisco CA.

Roberson, D. and C. Tenney. 1993. Atlas of the Breeding Birds of Monterey County, California. Audubon Society. 438 pp.

4

Leslie's Signature Stationery

Page 1 of 1

O-16

Calderon, Vanessa A. x5186

From: Leslie Jordan [ljordan@TNC.ORG]
Sent: Monday, February 02, 2009 4:09 PM
To: ceqacommments
Cc: Leslie Jordan
Subject: RE: Comments on the Draft Environmental Impact Report for General Plan Update

Dear Mr. Holms,

We found some minor changes we'd like to make to the document we sent to you earlier today. Please review the attached document and ignore the previously sent letter.

I am also sending the revised letter by snail mail as well but it will arrive a day later than the original one.

Thank you for your time.

Sincerely,

Leslie Jordan

From: Leslie Jordan
Sent: Monday, February 02, 2009 2:21 PM
To: ceqacommments@co.monterey.ca.us
Cc: Leslie Jordan
Subject: Comments on the Draft Environmental Impact Report for General Plan Update

Dear Mr. Holm,

Christina Fischer from our Monterey office asked me to send you the attached letter. I have also sent the letter my snail mail. If you have any problems receiving this e-mail, please contact me at the e-mail below or call me.

Thanks much,

Leslie Jordan

Please consider the environment before printing this email

Leslie A. Jordan
Operations Administrator

ljordan@tnc.org
(415) 281-0483 (Phone)
(415) 777-0244 (Fax)

The Nature Conservancy

201 Mission Street
4th Floor
San Francisco, CA 94105



nature.org

02/02/2009

O-17 56

mintierharnish
planning consultants

Monterey County
Planning and Building
Inspection Administration

1415 20th Street
Sacramento, CA 95811
Phone: (916) 446-0522
Fax: (916) 446-7520
Email: mintier@minterharnish.com
www.minterharnish.com

FEB 04 2009
RECEIVED
Rec'd as CEQA
Comments 2/2/09
2:19 pm

February 2, 2009

Mr. Carl Holm
RMA-Planning Salinas Permit Center
168 W. Alisal St.
2nd Floor
Salinas CA 93901
[ceqacomment@co.monterey.ca.us]

RE: Comments on the Monterey County General Plan Draft Environmental Impact Report, Section 4.9, Biological Resources

Dear Mr. Holm:

On behalf of Plan for the People, a group of citizens and organizations in Monterey County concerned about the future of the area's agriculture, hospitality, housing and jobs, I have prepared comments on the Monterey County 2007 General Plan Update (Plan) Draft Environmental Impact Report Section 4.9, Biological Resources, dated September 2008 (DEIR). My overall conclusion is that the DEIR applies an inappropriately broad definition of "special status species" that is inconsistent with the Plan. Furthermore, this broad definition is unsupported under the California Environmental Quality Act (CEQA) in the absence of supporting evidence in the record. As a result, the DEIR incorrectly finds certain impacts of the Plan to be significant that should in fact be found less than significant. Further, based on its incorrect significance findings, the DEIR recommends unnecessary, and in some cases very expensive, mitigation measures that must be removed.

General Comments

1. **Redefining Special Status Species.** The DEIR, at page 4.9-1, inappropriately rejects the Plan's definition of special status species in favor of a broader, more inclusive definition without substantive explanation or justification. While the California Environmental Quality Act (CEQA) permits the broader definition, it does not require it. CEQA does require that if a lead agency chooses to treat other species as if they are a species that is listed as rare, threatened, or endangered pursuant to the Federal or State Endangered Species Acts, the agency must apply tests approximating the statutory listing process to substantiate that the treatment is justified. The DEIR fails to provide that substantiation. The DEIR must be revised to rely on the approved County definition found in the glossary of the Plan, correct conclusions of significance that rely on the DEIR's unsupported definition, and remove or correct related mitigation measures appropriately.

O-17

Comments on Monterey County GPU DEIR
February 2, 2009
Page 2

2. **Impact Assessment for the Planning Horizon and Buildout.** The DEIR describes and assesses the Project (which in this case is the 2007 General Plan) impacts for two time periods: the 2030 planning horizon; and buildout of all land designated for development under the Plan, which is estimated to be 84 years (2092). Assessment of potential impacts for an 84-year period is a meaningless, inappropriate exercise for two basic reasons. First, and most importantly, the Project is defined as a general plan intended to guide growth and development through 2030, not 2092. CEQA requires that an EIR assess the potential environmental impacts of a proposed project, which in this case is a plan for 2030. Before or by 2030, in accordance with planning practice and State General Plan Guidelines, the County of Monterey will update the Plan. It is inappropriate to speculate what development might occur beyond the planning horizon because the Plan will be updated and a new assessment of development impacts beyond 2030 can be prepared at that time. Secondly, assessing potential impacts 84 years in the future is simply far too speculative to have any substance or relevance to the County decisionmakers. The DEIR states as much. Not only is it impossible to determine what lands and species might be impacted 84 years in the future, many of the species currently listed as special status may not even be listed in 2092. Some species may have disappeared while others may have recovered to the point of being de-listed. Any discussion of potential impacts beyond the planning horizon of the Plan must be removed from the DEIR.

Specific Comments

1. **Page 4.9-1, Special Status Species [Note].** The DEIR proposes expanding the Plan's "special status species" definition to include many unlisted species and plant groupings, calling the new definition "CEQA-defined special-status species." Despite the implication in the name, CEQA does not define special status species, or use the term. While the DEIR does not say its expansive definition is required by CEQA, it implies it is required by Section 15380 in the CEQA Guidelines. Section 15380 is the Guidelines' definition for endangered, rare and threatened species. The definition allows species other than those listed in Title 50, Code of Federal Regulations, or Title 14, California Code of Regulations, to be considered endangered, rare or threatened for CEQA purposes, but only after it has been shown the species meet tests that approximate the statutory tests required for listing in Title 50 or Title 14. The DEIR provides no evidence the species it proposes to treat like listed species have passed the tests. CEQA requires such determinations to be supported by substantial evidence in the record, based on facts.

Comments on Monterey County GPU DEIR
February 2, 2009
Page 3

¹ The DEIR implicitly assumes that a species' appearance on a different list is sufficient factual basis. However, the California Court of Appeal has rejected that notion.² Neither CEQA nor the California or federal endangered species acts provide for treating plant groupings like "plant communities" as listed threatened or endangered species.

By proposing that non-listed species and plant groupings be treated like species that have been through the rigorous statutory process required to list them as endangered, threatened or rare, the DEIR disregards the due process inherent in the state and federal endangered species acts.³ That due process provides the opportunity for citizens to study the effects of extending protection to previously non-listed species and to present scientific and commercial data to rebut the need to extend protection to a previously non-listed species, and also, to protect the property rights of landowners who would be affected by unjustified regulations to protect a species, or its habitat, when it may not actually need protection. The DEIR significance determinations and mitigation measures must be corrected to be consistent with the definition of special status species in the Plan Glossary.

2. Pages 4.9-21 to -23, Section 4.9.3.3, CEQA-Defined Special-Status Species. Consistent with previous comments, this section must be revised to include only those species listed under the Federal Endangered Species Act (FESA) or California Endangered Species Act (CESA) [the first two bullet points on page 4.9-22]. The DEIR fails to provide the required substantial evidence with facts to support the inclusion of the additional categories of species listed on page 4.9-22. Again, the DEIR significance

¹ (CEQA) PRC section 21082.2 (a) and (c), for example, "Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." (Emphasis added.)

² "Defend the Bay contends the EIR was required to find the project impact on the creature significant because it is an 'endangered, rare or threatened species.' (Guilanos, § 15006.) But it does not point to any evidence of this designation. To the contrary, the record characterizes the load as a 'sensitive' species and a California species of 'special concern' and there is no suggestion that is the same thing. We assume the different labels were attached for a reason and Defend the Bay does not address the issue." (Defend the Bay v. City of Irvine (2004) Cal. App. 4th 1261, 1277; emphasis added.)

³ For example, see the Federal Endangered Species Act, at Title 16, Section 1533, which requires receiving a petition to list, preparing a 90-day government review to determine whether the petition has merit, publishing the proposal to list, allowing 12 months for public review and comment, giving notice to professional scientific organizations, publishing the proposal in a newspaper of general circulation, holding a public hearing if requested, and publishing a final decision that includes the factual basis for the decision (e.g., at 16 USC 1533(b)(8). "The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this Act shall include a summary by the Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulation..." (Emphasis added.)

Comments on Monterey County GPU DEIR
February 2, 2009
Page 4

determinations and mitigation measures must be corrected to be consistent with the definition of special status species in the Plan Glossary.

3. Pages 4.9-64 to -73, Section 4.9.5.4, Impacts on CEQA-Defined Special-Status Species, Impact BIO-1. This impact analysis must be revised to address only impacts on special status species as defined by the Plan. The land area proposed for development under the Plan that includes special status species must be clearly identified and the potential impacts clearly defined. The DEIR refers (page 4.9-65) to habitat conversion but is unclear how much of that habitat, if any, includes special status species as defined in the Plan. This uncertainty must be clarified.

4. Page 4.9-73, Significance Determination. The DEIR acknowledges that Plan policies require avoidance, minimization, and compensation for impacts to special status species. This acknowledgement, in and of itself, is sufficient basis for a conclusion of less than significant impacts without mitigation. The reference to "landscape-level concern" related to potential impacts of development in the Salinas Valley on kit fox habitat (presumably the San Joaquin kit fox which is listed as endangered under the FESA and threatened under the CSEA) is unclear. First, the DEIR contains no analysis of this "concern." It fails to identify any potential impacts to the kit fox and fails to explain why the Plan policies will not result in avoidance, minimization, or compensation for any potential impacts to the listed kit fox. This discussion must either be removed from the DEIR or expanded to explain why the Plan policies are insufficient to address the concern.

The DEIR erroneously concludes that the Plan does not provide for a systematic approach to address impacts of development on special status species. The DEIR fails to provide substantial evidence that any species other than those listed under the FESA and CESA qualify for the same protection under CEQA. The Plan policies clearly provide for protection or impact mitigation for listed policies, as acknowledged by the DEIR. The DEIR conclusion that this is not enough is unsubstantiated by factual analysis and must be revised to be less than significant.

The further conclusion that development under the Plan would result in significant impacts to unlisted species is erroneous for two reasons. First, the DEIR fails to provide substantial evidence that those non-listed species are entitled to the same presumption of impact significance as listed species. Second, in the absence of that presumption, the DEIR must show that the impacts to those species would be "substantial." The DEIR provides no evidence to support such a conclusion. The DEIR must be revised to provide substantial evidence to support the significance conclusion or conclude that the impacts will be less than significant and no further mitigation is required.

O-17

Comments on Monterey County GPU DEIR
February 2, 2009
Page 5

- 5. **Page 4.9-73, Mitigation Measure BIO-1.1.** This measure must be deleted because it would needlessly waste County funds and staff time mapping species and plant groupings that are not properly included in the definition of special status species, as discussed above. Adequate inventories of legitimate special status species and other resources, as defined in the Plan, currently exist. 5
- 6. **Page 4.9-74, Mitigation Measure BIO-1.2.** This mitigation measure is not supported by substantial evidence in the record. The DEIR reaches the unsubstantiated conclusion (page 4.9-73) that there is a "...landscape level concern" related to new development in the Salinas Valley that may occur in potential kit fox habitat that is not addressed by Plan policies. No factual analysis of this concern is presented in the DEIR. More importantly, this issue is characterized as a "concern," not a significant impact. CEQA does not require mitigation measures to resolve concerns. CEQA does require an EIR to include feasible mitigation measures to reduce potential significant impacts to a less than significant level. Mitigation measure BIO-1.2 does not mitigate any potentially significant impacts identified in the DEIR and must be removed. Further, even if the DEIR provided substantial evidence of a potential significant impact to San Joaquin kit fox in the Salinas Valley as a result of development permitted under the Plan, an appropriate mitigation measure would recommend additional policies to address the impact. It is not appropriate for a DEIR on a general plan to recommend specific program implementation, particularly one such as described in BIO-1.2 that has such significant cost and policy implications. Measure BIO-1.2, among other things, requires the County to assure the cooperation of Federal, State, and local agencies over which the County has no control. Further exacerbating this impossible situation is the proposed requirement that the measure be implemented in four years. Even in the best of circumstances, Habitat Conservation Plans require five or more years to complete. This measure is not supported by evidence in the record, does not mitigate any identified potential significant impact, is likely impossible to implement, and must be removed from the DEIR. 6
- 7. **Pages 4.9-74, Mitigation Measure BIO-1.3.** This measure is inconsistent with CEQA. As discussed in comments above, the DEIR provides no substantial evidence that non-listed species qualify to be considered special status. While the County has the discretion to make this determination, it has not done so. This mitigation measure has cost and policy considerations that must be subjected to thorough discussion and decisions by the Monterey County Board of Supervisors. The preparers of the DEIR have exceeded their authority by determining new CEQA policy without any direction from the Board. 7

O-17

Comments on Monterey County GPU DEIR
February 2, 2009
Page 6

- Mitigation Measure BIO-1.3 must be removed as inconsistent with CEQA's substantiation requirements. 7
- 8. **Page 4.9-75, Significance Conclusion.** This discussion must be revised to reflect the revisions recommended in the comments above. The discussion must be based on substantial evidence in the DEIR as to the potential significant impacts and the effectiveness of feasible mitigation measures. For example, the reference to significant San Joaquin kit fox impacts in the first paragraph is not only unsubstantiated by factual analysis, the DEIR at page 4.9-73 includes that there is merely a "landscape-level concern" about San Joaquin kit fox habitat impacts, not a potential significant impact requiring mitigation. 8
- 9. **Page 4.9-77, Significance Determination.** Again, the DEIR makes a determination unsupported by factual analysis. The DEIR has not shown that the Plan will result in significant impacts to non-listed species. CEQA requires substantial fact-based evidence that the Plan will result in the *substantial* reduction of the range of these non-listed species. The DEIR has not presented this evidence and, therefore, the significance conclusion is wrong and must be removed. 9
- 10. **Page 4.9-77, Mitigation Measure BIO-1.4.** This mitigation measure must be removed for three reasons. First, the DEIR fails to identify a potential significant impact this measure is intended to mitigate. Second, it is so general that it is impossible to reach a conclusion, based on evidence in the record, that it will mitigate a specific impact to a less than significant level. Mere identification of growth areas will not assure that natural habitat loss will be reduced. Third, and most importantly, it is both inappropriate and well beyond the scope of an EIR to set a timetable for a subsequent General Plan update. While it is likely an update will occur in the next 22 years, the timing and content of the next General Plan update is outside the purview of CEQA. 10
- 11. **Page 4.9-78, Mitigation Measure BIO-1.5.** Mitigation measure BIO-1.5 does not mitigate any potentially significant impacts identified in the DEIR and must be removed. It is not appropriate for a DEIR on a general plan to recommend specific program implementation, particularly one such as described in BIO-1.5 that has such significant cost and policy implications. Measure BIO-1.2, among other things, requires the County to assure the cooperation of Federal, State, and local agencies, as well as dozens of private property owners, over which the County has no control. This is an enormous and 11

O-17

Comments on Monterey County GPU DEIR
February 2, 2009
Page 7

costly undertaking. Including such a program as a mitigation measure obligates the County to complete the HCP or face legal challenge under CEQA. A county-wide HCP is a controversial issue which has been discussed for years. It is at the heart of much of the controversy that has plagued the Monterey County General Plan Update process. It is highly inappropriate for the DEIR to include a county-wide HCP as a mitigation measure, particularly since the measure is not supported by evidence in the record, does not mitigate any identified potential significant impact, and is likely impossible to implement. BIO-1.5 must be removed from the DEIR.

11

12. Pages 4.9-97 and -98, Impact BIO-3.2. The DEIR concludes without factual support that the disturbance or loss of nesting migratory bird and raptor habitat is a potentially significant impact. This statement is unsupported by facts in the record or CEQA. To reiterate the CEQA significance standard stated previously, CEQA permits consideration of wildlife species, other than those formally listed under the FESA or CESA, provided that substantial factual evidence shows that the species in question meets the tests in CEQA Guidelines section 15380(b), which approximate the tests required for a species to be listed under FESA or CESA. The DEIR fails to provide this evidence for nesting migratory birds and raptors, including birds and raptors protected under the Migratory Bird Treaty Act (MBTA). The MBTA provides protection separate from CEQA. Unless there is substantial evidence provided in the record, protection for those species covered under the MBTA does not extend to CEQA. Impact BIO-3.2 is not substantiated by substantial evidence in the record and must be removed.

12

13. Page 4.9-98, Mitigation Measure BIO-3.2. Following on comment 12 above, this mitigation measure must be removed as unnecessary since the impact it is intended to mitigate is unsubstantiated and must be removed from the DEIR. Further, the mitigation measure is infeasible based on the severe, over-reaching, impractical limitations placed on vegetation removal. The measure refers generically only to "vegetation" which can be interpreted as all vegetation. In fact migratory birds may nest in a wide variety of vegetation types, including natural vegetation, ornamental landscaping, and other common urban vegetation. This measure, if adopted, would potentially regulate modification to all vegetation in the County, including backyards and street trees. This extreme regulation defies common sense. The measure is also flawed given the unreasonably narrow and impractical window allowed for vegetation removal. The September 16 through January 31 window falls largely in the winter time when construction activities are limited or prohibited due to the rainy season. The terms of the removal are absolute. The measure does not permit vegetation removal from February 1 through September 14 under any circumstances, even if no "protected" species or habitat is present. Finally, as with many other measures found in the DEIR, this measure is far

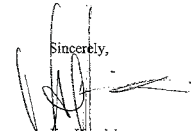
13

O-17

Comments on Monterey County GPU DEIR
February 2, 2009
Page 8

too specific for a General Plan program DEIR. The purpose of program EIR is to evaluate the potential impacts resulting from implementation of General Plan goals and policies and recommend policy modifications to mitigate those impacts. Instead, Mitigation Measure BIO-3.2 inappropriately imposes detailed, over-reaching, project-specific actions appropriate for a project-level EIR. This measure must be removed from the DEIR or, at a minimum, modified to simply recommend additional policies intended to address protection of migratory birds and raptors, provided that substantial factual basis is provided to show significant impacts and justify the policies.

13

Sincerely,

Jim Barnish
Principal
JH/twj

O-17 Page 1 of 1

Calderon, Vanessa A. x5186

From: Mintier Hamish [mintier@mintierhamish.com]
Sent: Monday, February 02, 2009 2:19 PM
To: cegacomments
Subject: Monterey County GPU DEIR – Comment Letter

To: Mr. Carl Holm

Please find attached comments on the Monterey County General Plan Draft Environmental Impact Report, Section 4.9, Biological Resources, for your review.

Jim Harnish, Principal

--

Mintier Hamish
1415 20th Street
Sacramento, CA 95811 (new zip code)
916-446-0522
916-446-7520 (fax)
mintier@mintierhamish.com

"Mintier & Associates has changed its name to Mintier Harnish, effective September 1, 2008, reflecting a corporate reorganization. This change includes a new website (www.mintierharnish.com) and new email extensions ("@"[mintierharnish.com](mailto:@mintierharnish.com)). Please update your contact list accordingly."

02/02/2009

O-18a

From: [Holm, Carl P. x5103](#)
To: [Rotharmel, Linda M. x5240](#);
Subject: FW: HARDCOPY LETTER WILL FOLLOW DEIR COMMENTS/GPU#5
Date: Wednesday, October 22, 2008 9:45:09 AM

For GPU comment file

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

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

From: Holm, Carl P. x5103
Sent: Wednesday, October 22, 2008 9:45 AM
To: 'janmitchell77@hughes.net'
Cc: Knaster, Alana x5322; Novo, Mike x5192; McKee, Charles J; Girard, Leslie J.; Strimling, Wendy; 100-District 2 (831) 755-5022
Subject: RE: HARDCOPY LETTER WILL FOLLOW DEIR COMMENTS/GPU#5

Ms Mitchell,

I have received your comment on the EIR process for the 2007 General Plan Update.

Reference documents are available in various formats. Many are made available via the web, others are available at our front counter in hard copy. Please specify the reference materials that you are having difficulty with and we will be more than willing to assist you to help find them.

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

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

From: Knaster, Alana x5322
Sent: Wednesday, October 22, 2008 9:40 AM
To: Holm, Carl P. x5103
Subject: FW: HARDCOPY LETTER WILL FOLLOW DEIR COMMENTS/GPU#5

O-18a

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

From: Gowin, Henry M. **On Behalf Of** 100-District 2 (831) 755-5022
Sent: Tuesday, October 21, 2008 5:43 PM
To: Knaster, Alana x5322
Subject: FW: HARDCOPY LETTER WILL FOLLOW DEIR COMMENTS/GPU#5

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

From: Jan Mitchell [mailto:janmitchell77@hughes.net]
Sent: Tuesday, October 21, 2008 5:31 PM
To: 100-District 1 (831) 647-7991; 100-District 2 (831) 755-5022; 100-District 3 (831) 385-8333; 100-District 5 (831) 647-7755; 100-District 4 (831) 883-7570
Subject: Fwd: HARDCOPY LETTER WILL FOLLOW DEIR COMMENTS/GPU#5

Begin forwarded message:

From: Jan Mitchell <janmitchell77@hughes.net>
Date: October 21, 2008 5:23:39 PM PDT
To: CLERK OF THE BOARD <cttb@co.monterey.ca.us>
Cc: "Novo - P&I, Mike" <Novom@co.monterey.ca.us>; Mckee Charles MC Council <mckeecc@co.monterey.ca.us>
Subject: HARDCOPY LETTER WILL FOLLOW DEIR COMMENTS/GPU#5

October 21, 2008

Fernando Armenta, Chair
standard mail

Submitted via e-mail and
standard mail

MONTEREY COUNTY
BOARD OF SUPERVISORS
168 W. Alisal Street
Salinas, Calif. 93901

O-18a

REF: DRAFT ENVIRONMENTAL IMPACT REPORT FOR
GPPU#5

Reference Documents NOT AVAILABLE

Chair Armenta, and Honorable Supervisors:

As the official representative for both our Prunedale Neighbors Group (PNG) as well as our Prunedale Preservation Alliance (PPA), we are proud that we have monitored and participated in all four previous drafts of the Monterey County General Plan Update effort. For lay participants, this has been a long an arduous adventure.

We are also working diligently to digest the extensive material provided in the current GPU#5 DEIR recently released. Nonetheless, we are experiencing much difficulty due to pertinent reference documents which appear to be missing (?) Please pardon our naiveté, but doesn't CEQA require that all documents referenced in the EIR must be available for public review during the agency's normal working hours? No doubt you have received complaints from others concerning missing documentation as well.

Indeed, I hope you can appreciate that this is a monumental task for we as lay citizenry, as we are certainly not as educated as staff with regard to terms, etc. Indeed, we are handicapped to review this monumental data at best.

Admittedly, we often read a paragraph several times before we might

O-18a

finally understand its actual meaning. Since lay citizens do NOT have the advantage of working in the land-use arena daily, you can appreciate that this for us is a true civic challenge.

Further difficulty, since this task is NOT our livelihood, we must schedule FREE time for review around work hours (9 to 5), and our chores which wait at home and our family/children obligations, so again, our time for review is limited.

When all of the necessary documentation is not available, this becomes a MORE frustrating effort. Our goal is to respond in a timely fashion. We are eager to provide meaningful input, yet without the necessary reference materials, we feel it is unfair to have a limited deadline. Initially, the public was led to believe there would be a 60-day review period. Then, that time to respond was reduced to a difficult 45-day minimum.

Please hear our request today: 1) provide us with the required documentation which is currently missing and 2) extend the deadline time for the public review accordingly. Clearly, anything less would not be in compliance with CEQA mandates.

Sincerely,

(Mrs.) Jan Mitchell, Representative

PRUNEDALE NEIGHBORS GROUP

PRUNEDALE PRESERVATION ALLIANCE

O-18a

CC: Mike Novo

Charles McKee

Clerk of the Board

The following details some of the problems we are experiencing:

The total number of reference documents listed in the DEIR, Section 11, is approximately 328. Attempts to reference documents on line have not been successful. Some documents are not usable, and not clear since pages are missing, or do not provide necessary information.

Other problems with reference documents appear with lesser frequency, but are nonetheless equally incomprehensible or inaccessible. Many of the links provided by the County are not to the reference documents on the website. There are links to pages which no longer exist, links to homepages of public agencies and private entities, but no link to the document itself; links to search pages that do not allow for a search, etc. Some documents are missing every other page. We also understand, in discussions with others who are experiencing similar difficulty, that some paper documents at the County Planning Department are incomplete. Hopefully, we will not have to waste our precious time going down to the department to no avail.

Individuals and groups who paid a "pretty penny" I might add (during difficult economic times) to purchase a copy of the DEIR now find they did NOT receive any notification from the county about an updated list of Section 11 documents. (?) This is inexcusable.

O-18a

The County website STILL LISTS OCTOBER 28 as the deadline for comments. This is inaccurate, as we understand that the deadline has been extended to November 18th. Now we are questioning---which is the correct date???? This incorrect information is misleading to anyone who reads the website and merely generates further confusion

1

O-18b 37

Monterey County
Planning and Building
Inspection Administration

FEB 02 2009

RECEIVED

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

From: Jan Mitchell [mailto:janmitchell77@hughes.net]

Sent: Sunday, February 01, 2009 9:47 PM

To: Holm, Carl P. x5103

Subject: COMMENTS/GENERAL PLAN UPDATE #5/"The Compromise Plan"

Hello Carl:

Below, you will note comments from our PRUNEDALE NEIGHBORS GROUP. I will also hand-deliver a hard copy to your office tomorrow.

Thank you,
Jan

February 2, 2009

Carl Holm,

Asst. Director

PLANNING DEPARTMENT

County of Monterey

168 W. Alisal St.

Salinas, Ca. 93901

"HAND DELIVERED" & "E-MAILED"

REFERENCE: COMMENTS TO MONTEREY COUNTY 2007 GENERAL PLAN DEIR

Dear Mr. Holm:

We hope (as lay citizens) we can present our concerns in some sense of order, as this Draft Environmental Document seems inordinately thick, (4 ½ inches ...we measured) and filled with much information which doesn't really tell us much. Some omissions were disconcerting.

In the interest of time, we plan to address only those issues which are of primary concern to us. We are not paid to respond; hopefully, we have elected representatives who will consider our

1

O-18b

interests. In addition, we leave the specificities to the "expert" lay individuals of such organizations as LandWatch, Monterey County, the Sierra Club, the California Native Plant Society, and others who will no doubt submit many more substantive questions relative to this DEIR and therefore reference many of our own biological concerns.

1

It goes without saying that we remain cautiously optimistic about the adoption of GPU#5. In its current form, GPU#5 represents significant progress toward the compromise position which the Board of Supervisors promised voters after the stalemated election of June 2007; however, there are many areas yet to be improved.

For the record, the following are a few of the enforceable policy gains in the current draft WHICH WE SUPPORT:

- NO further subdivision in the entire north county (non coastal) PLANNING AREA.
- A provision that absolutely LIMITS subdivision in the area just north of Salinas to Butterfly Village and puts an end to the larger Rancho San Juan Project.
- NO further subdivision in the Toro Planning Area along Hwy 68
- NO further subdivision of agricultural land (of state-wide importance as mapped by the state) for non-agricultural purposes in the Salinas Valley and throughout the entire county.

2

We begin by relating our concerns regarding AIR QUALITY:

4.7-4 states, "Wineries also contribute hydrocarbons through their fermentation activities."

An article in the Herald 12/17/2005 regarding problems in Fresno, Calif. referenced that air regulators there had to approve the nation's first AIR QUALITY CONTROLS for wineries. This was an effort to clamp down on the smog-forming chemicals that drift into the atmosphere during fermentation. The winery rule approved by the San Joaquin Valley Air Pollution Control District asked the 18 largest winemakers in the 8-county region to reduce pollution coming from their plants by 35 per cent. Wineries in the valley had come under scrutiny because the fermentation process that turns grape sugars to alcohol releases ethanol, methanol, and other organic compounds into the atmosphere, where they react with sunlight and heat to form ozone. Regulators estimated that the grape fermentation process released about 788 tons of pollutants per year.

3

Do we really want such an impact in our county? Seems to me from the profits published in local newspapers, these vintners are doing well economically. What's is wrong with leaving the process as it is currently for approval of wineries? How healthy will this be for other Monterey County crops? Or for the residents for that matter? Or, for our tourists visiting this area? Does this impact not need further (in depth) analysis?

As reported in the local Californian (3/23/2006), "California Second in Air Pollution" only to New York, among states with the dirtiest air, according to data from the Environmental Protection Agency (EPA). By the numbers: "In California, slightly fewer than 66 residents per

O-18b

million are at risk of developing cancer due to the air they breathe." Is this not already a serious environmental concern?

3

WATER OVERDRAFT CONCERNS:

According to one water purveyor, it is estimated that ONE PERSON uses 100 gals of water per day, on average.

Many of the areas proposed for growth in GPU#5 are dealing with current water overdraft situations, and without ANY water solution implemented, from whence will adequate groundwater supplies come? Would it not be more prudent to implement a water solution prior to any new build-out? Isn't this how we got into this water overdraft situation in North County in the first place? And, what about the Toro area? Were our "representatives" not warned in the Fugro Report of 1995? Why have we no water solution, yet we propose more and more and more development without regard to no solution?

4

We are experiencing another dry year. Santa Cruz county announced some water rationing just yesterday. Here in north county, thirteen north county families have been trucking in water for the past 2 1/2 years. Others truck in periodically. Is this not a slap in the face to those poor residents to propose such tremendous growth, and yet NO SOLUTION for them? We knew we had a severe water problem when the previous General Plan was adopted; when does common sense prevail?

How do we accommodate additional wineries and grape fields as the DEIR discusses, particularly when it comes to water demand? What "miracle" WATER solution will accommodate all additional proposed growth for agriculture and residences as well?

Folks in our north county have no solutions for those already lacking potable water. Repeated public water meetings are led by the same folks wringing their hands, and proposing new taxes to provide them with a resource which should have been a given when they purchased their properties. Ad hoc committees seem to provide no solutions either. However, those deprived individuals have been promised relief from the Salinas Valley Water Project, which is yet to be built, and is located 13 miles away.

In addition, please advise how water will run UPHILL to benefit our north county residents, and in addition, where is the distribution system to carry the water? Furthermore, where is the funding mechanism for the distribution system?

What funding mechanism can possibly save the day when we are experiencing a local, national and federal ECONOMIC CRISIS? Was this information provided in the DEIR somewhere and we simply overlooked it?

TRAFFIC IMPACTS:

As we understand it, state law requires each city and county General Plan shall include both a "Circulation" element, and a "Land Use" element. Does not state law also require that these two

5

O-18b

elements be "internally consistent"? Please explain how the amount of growth projected will be substantiated with adequate transportation networks to serve that growth. Where is the cost benefit analysis?

When the traffic modeling was prepared, was any thought given to the additional construction traffic? With so much build-out projected, it would appear that the impacts from construction traffic would be astronomical and should certainly be included as a substantive impact. Will not these heavy loads break down our existing roadway systems even more? We can't afford to maintain what we have now.

Has an infrastructure funding plan been prepared? How will we legally plan for major new roads that aren't needed from the point of view of what is guesstimated the future land uses will be? Establishing major new freeways through land designated for farming doesn't really compute. Would this not be an "internal inconsistency" which state law indicates is not allowed?

Would not the reduction from Level of Service "C" to Level of Service "D" as proposed, be a step backward in planning? Or is this planning at all? Particularly since LOS "C" was NEVER been achieved?

DEFICIENT INFRASTRUCTURE - (Especially for Ag Winery Corridor Plan).

In March 2004, a review of the River Road Project Study Report reflected an estimated \$126 million cost was needed for road "safety and improvements" for the River Road corridor ALONE, and was absent from the General Plan Update wine corridor fee nexus. Public wants to see, and expects to see, some REAL DOLLAR figures.

A conservative estimate for the entire winery corridor network safety improvements might well have been \$180 MILLION---THAT WAS 2004 DOLLARS! As asphalt prices continue to rise (as has been the case with the Prunedale Improvement Project, which the public was assured time and again was "fully funded"), and with the state of California intending to perhaps distribute IOU's to pay our personal income tax refunds--from where will the funding come for the infrastructure to sustain such tremendous new growth?

We must question, how will current infrastructure accommodate the 21 possible accessory uses associated with wineries, as listed in the draft brochure circulated by the Dept of Planning & Building Inspection in 2001, as follows:

- Winery as defined in Titles 20 and 21
- Artisan winery defined in Titles 20 and 21
- Bed and Breakfast Facilities
- Picnic Grounds
- Campgrounds
- Delicatessen
- Restaurant
- Conference Center
- Indoor events of 150 persons or less
- Indoor events more than 150 persons

5

6

O-18b

- Outdoor events of 150 persons or in more
- Farm Labor Housing
- Employee Housing
- Concerts
- Weddings
- Convention Center
- Spa/Resort
- Golf Course
- Tennis Courts
- Night Lighting
- In addition, there are Tasting rooms not with wineries
- Existing building in a vineyard
- New building, new location
- Public Road access
- Bonded Winery off-site tasting room
- Multiple Winery Tasting
- Retail sales of wine and wine items only
- Pre-packaged food service and retail sales
- Food preparation on site
- Tasting room in an historic structure
- Commercially zoned property
- Viticultural area

The possibilities seem endless---all this---merely with ministerial permits?? Does this not mean they would be exempt from CEQA at the project level? What about the cumulative impacts? When will those be addressed---if ever?

Just as an aside, the Herald ran an article on 7-11-2006 with a headline which read:

"Climate Changes Could Devastate U.S. Wineries". That article stated that Climate warming could spell disaster for areas currently suitable for growing premium wine grapes. These could be reduced by 50 per cent...and possibly as much as 81 per cent ---by the end of this century according to a study Monday in Proceedings of the National Academy of Sciences.

What will be required of vintners if/when this disaster occurs? Will these vines be merely left in the fields to wither as blight, or would vintners be required to restore the land to it's original state?

What about wastewater discharge from wineries? Has this impact been adequately analyzed?

AFFORDABLE HOUSING :

As we understand it, the special treatment/special interest Winery Corridor Plan (formulated with very little or no input from the general public) intends to promote this corridor along more than 80 miles of Salinas Valley roadways which wind through much of our county's scenic farmland--all the way from Salinas down lengthy stretches of River Road, Metz Road, and Elm and Toro Roads---all the way to Lockwood. Why such "special treatment" for ONE special interest?

6

7

O-18b

The labor for these facilities will ultimately be low-paid wage earners. These jobs are generally for food servers, busboys, maids, wine pourers, facility workers, groundsmen, grape harvesters, etc. How will sufficient affordable housing be provided for these additional low-wage earners? Seems this county hasn't enough now to accommodate our field workers. Developers claim that affordable housing development "doesn't pencil out"...so, what incentive have they to build it?

Will this housing be provided near the jobs to ensure a housing/jobs balance? Will it also be provided near emergency services? Who will ultimately pay for these low wage earners families' medical benefits and/or other services which they will require?

What police protection has been planned for these corridors (located so far from county Sheriff's stations)? During budget hearings, the Sheriff states he is understaffed now, so what further cuts are anticipated with the current economic downturn. Will these vintners be subsidized to pay for this protection, or will this expense fall again on the taxpayer, while the vintners reap the profits?

Does this low-paid wage earner group not already need more housing and services than Monterey County can currently provide?

BIOLOGICAL ISSUES:

As previously noted, there will be others, much more expert than we who will respond to this topic. No doubt, they will submit many of our questions.

However, we'd offer one comment"; we would hope Monterey County will adopt an Oak Woodlands Management Plan. We must begin to take careful notice of what is happening with our climates. Our climates are obviously changing... of this there is no doubt. Daily weather forecasts confirm this. These changes are not necessarily for the better. Considerable evaluation of trends in climate is necessary in considering how and where to restore oak woodlands which can require 300-500 years to reach maturity.

While we are NOT expert enough to comment on the biological, we DO have numerous grave concerns for the loss of our wondrous oaks and other trees which provide so many beneficial environmental qualities.

Further, we fail to note any true analysis denoting loss of wildlife habitat resulting from so much additional projected development. Is this data not required? What funding will be available for wildlife protection?

STEEP SLOPES:

One of our major concerns relates to the protection of steep slopes. For decades, Monterey County has maintained a slope ordinance that prohibits new cultivation of slopes of 25% or steeper. The current language in GPU#5 seems to eliminate that definitive prohibition

7

8

9

O-18b

everywhere except Carmel Valley, where the prohibition has been maintained in GPU#5. New cultivation on steep slopes has dangerous implications for the areas outside Carmel Valley.

Not only will it cause erosion, threaten our remaining water quality and wildlife corridors, we ask why an outright prohibition cannot be included in the General Plan? After all this has worked WELL since the last general plan...if it works, why are we fixing it?

San Mateo County areas of Napa and Sonoma ban vineyards on hillsides with slopes greater than 50 per cent. We neighbors want to maintain the 30% slope rule, especially in our north county areas where the ground "moves". Regulations should be strong, and continually monitored, and violators should be punished so as to discourage repeat offenders.

Perhaps you will recall that the best CALTRANS experts available couldn't hold the "eroding" hill at the San Miguel flyover when it was constructed. Following multiple stabilization attempts, that hill is still suspect.

CONCLUSION:

It is a matter of public record that under date of: July 24, 2001, the Monterey County Board of Supervisors formally adopted Twelve General Plan Guiding Objectives, which were previously recommended by the Monterey County Planning Commissioners. As I recall, the vote was unanimous.

Are we to assume that these 12 ADOPTED Guiding Objectives are now to be "ignored" in the preparation of the DEIR?

Are we to assume that the Board of Supervisors merely adopts policies, then fails to follow them---? Perhaps you can explain?

In addition, why was the DEIR environmental analysis not correlated to these Board APPROVED AND ADOPTED 12 Guiding Objectives?

There is no doubt, there are numerous other questions which we could pose, but time will not permit. We will however, continue to monitor the formulation of general plan, and participate to the fullest allowed by law.

Thank you for the opportunity to respond to the Draft Environmental Document. For the Monterey County GPU#5, THE COMPROMISE PLAN.

Sincerely,

(Mrs.) Jan Mitchell, Representative

PRUNEDALE NEIGHBORS GROUP

70 Carlsen Road

9

10

O-18b

Prunedale, Calif. 93907-1309

Phone: 831/663-3021

Fax: 831-663-5629

Page 1 of 2 49
O-19

Calderon, Vanessa A. x5186

From: Richard H Rosenthal [rosenthal62@sbcglobe.net]
Sent: Monday, February 02, 2009 9:38 AM
To: ceqacomment
Cc: Richard H. Rosenthal
Subject: GPU 5 EIR Comments

Monterey County
Planning and Building
Inspection Administration

FEB 2 2009

RECEIVED

rec'd as CEQA
Comments 2/2/09
9:08 am

February 2, 2009

Monterey County Planning Department

Comments on GPU-5 Draft EIR

Save Our Peninsula Committee submits the following comments regarding the draft EIR. SOP's comments are kept to a minimum and not duplicative of the comments raised by Landwatch, Carmel Valley Association and the Monterey Peninsula Water Management District all of which are incorporated herein by reference thereto.

1. The General Plan fails to correlate the land use element with the circulation element. That is, the land use element must be closely related to the circulation element. The GPU -5 fails this test. Consistent with this failure, the EIR fails to assess the impact of the land use element designations on the circulation element. As a result, the EIR fails to address when development will overwhelm the roadways or any mitigation measures that could prevent it. Inadequate correlation precludes an honest EIR. Also, the defeat of measure Z requires the County to modify certain assumptions and the results therefrom.

2. Carmel Valley Traffic Issues:

The Ad Hoc Group of the Carmel Valley Road Committee prepared a December 8, 2008 Memorandum for Supervisor Potter that outlines glaring deficiencies in the traffic assessment concerning Carmel Valley. Of particular significance is the EIR's failure to adequately address the number of legal lots of record. See Appendix 1 to Memorandum. Also of concern is the confusion whether level of service C or D will be the LOS standard. This uncertainty prohibits a fair assessment of potential impacts and possible mitigation measures.

3. Affordable Housing Overlays:

There is no time or reason why these overlays were situated in an area of the County that has no infrastructure to support the resulting impacts.

4. Water Quality and Supply discussion is inadequate because it does not address how salt water intrusion into the Salinas Valley and the Seaside Aquifer will be arrested, what the costs are or the environmental impacts associated therewith. In addition the EIR fails to assess the possible environmental impacts associated with new water supplies, the costs of the new supplies and their impacts on user rates. Also, the EIR fails to discuss the current state and impacts of providing treated water for non potable uses.

5. Each of the infrastructure elements rely on a Capital Improvement and Financing Plan that shall be

02/02/2009

completed within 18 months from the adoption of the General Plan. The Plan and EIR are meaningless without the Financing Plan because the feasibility of mitigation measures cannot be assessed. The General Plan is more than 10 years in the making and the idea that there is no cost data attached to required infrastructure improvements is unacceptable. Also, the current collapse of the financial markets should be assessed to determine the likelihood of financing for these improvements, whether from public, private or a combination of the two. In a similar vein, any economic data relied upon for the General Plan and EIR should be revised to take into account the current state of the economy and the anticipation that it may stay in a similar condition for at least two more years.

5

Thank you for the opportunity to comment on the draft EIR.

Richard H. Rosenthal
Attorney for Save Our Peninsular Committee

Richard H. Rosenthal
Law Offices Richard H. Rosenthal
A Professional Corporation

02/02/2009

Calderon, Vanessa A. x5186

From: Richard H Rosenthal [rosenthal82@sboglobal.net]
Sent: Monday, February 02, 2009 9:08 AM
To: ceqcomments

Monterey County
Planning and Building
Inspector Administration
FEB 02 2009
RECEIVED

Monterey County Planning Department

Comments of GPU 5 Draft EIR

Save Our Peninsular Committee submits the following comments regarding the EIR. SOP's comments are kept to a minimum and not duplicative of the comments raised by Landwatch, Carmel Valley Association and the Monterey Peninsular Water Management District all of which are incorporated herein by reference thereto.

Richard H. Rosenthal
Law Offices Richard H. Rosenthal
A Professional Corporation

02/02/2009

O-20a

13_LTR_Dalessio_10-22-08

From: Holm, Carl P. x5103
Sent: Wednesday, October 22, 2008 9:42 AM
To: Rotharmel, Linda W. x5240
Cc: Harris, Lisa x4879
Subject: FW: GPU 5

Please add to comment and response file.

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

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

From: Holm, Carl P. x5103
Sent: Wednesday, October 22, 2008 9:35 AM
To: 'puffin@mbay.net'

Cc: Girard, Leslie J.; Strimling, Wendy; Knaster, Alana x5322; McKee, Charles J.;
Novo, Mike x5192; 100-District 1 (831) 647-7991; 100-District 2 (831) 755-5022;
100-District 3 (831) 385-8333; 100-District 4 (831) 883-7570; 100-District 5 (831)
647-7755
Subject: RE: GPU 5

Ms Dalessio:

Mike Novo is out of the office this week.

Reference documents are available in various formats. Many are made available via the web, others are available at our front counter in hard copy. Please specify the reference materials that you are having difficulty with and we will be more than willing to assist you to help find them.

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

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

From: "rita" <puffin@mbay.net>
To: "Novo, Mike x5192" <novom@co.monterey.ca.us>
Cc: "105-Clerk to the Board Everyone" <105-ClerktotheBoardEveryone@co.monterey.ca.us>; "100-District 1 (831) 647-7991" <district1@co.monterey.ca.us>; "100-District 2 (831) 755-5022" <district2@co.monterey.ca.us>; "100-District 3 (831) 385-8333" <district3@co.monterey.ca.us>; "100-District 4 (831) 883-7570" <district4@co.monterey.ca.us>; "100-District 5 (831) 647-7755" <district5@co.monterey.ca.us>; "McKee, Charles J" <McKeeC@co.monterey.ca.us>
Sent: 10/21/08 10:58 AM
Subject: GPU 5

Hi Mike,

The Ventana Chapter of the Sierra Club represents 6,300 members. We are currently reviewing the Draft EIR for the GPU-5 and have been involved in all the previous versions with due diligence for over 9 years. We are concerned that reference documents for GPU 5 are not available. Members of the Chapter have tried to gain access to reference documents listed in the DEIR section 11, but were unable to do so for several of the reasons. When we contacted The Open Monterey Project (TOMP) about this problem, we learned that they had, on October 17, 2008 advised the county of this problem. Even with this notification, we note that the referenced documents remain unavailable.

Page 1

O-20a

13_LTR_Dalessio_10-22-08

We are very concerned as this appears to be a violation of CEQA (California Environmental Quality Act). CEQA requires that all documents referenced in the EIR be available for public review. The County has failed to comply with this CEQA requirement. Many of the documents referenced in the DEIR are not available, in some cases not usable or not complete. There are problems with the links on the website and in the hard copy paper documents provided by the County Planning Department.

The County has not provided adequately the documents required by law. This could mean that the public's right afforded by CEQA could be delayed which is (1) a violation of the law and (2) denies the public the opportunity to review and analyze the DEIR.

As a result, we cannot adequately review the DEIR or make comments on it without access to the underlying reference data.

The Ventana Chapter joins with TOMP in their letter requesting that all complete reference documents be made available and that the public review of the Draft EIR not begin until the references are truly available.

Very truly yours,

Rita Dalessio
Ventana Chapter Chair

Page 2

O-20b

Holm, Carl P. x5103

From: rita [puffin@mbay.net]
Sent: Friday, October 24, 2008 10:58 AM
To: Holm, Carl P. x5103
Subject: RE: GPU 5

Mr. Holms,

Thank you for responding. The Ventana Chapter of the Sierra Club joins in all the comments and concerns of The Open Monterey Project as expressed in its October 17, 2008 letter to the County. It is not productive to detail the problems encountered by the Ventana Chapter, which are included in the 4-page October 17 letter and its 31 pages of detailed attachments. Our volunteer EIR reviewers have already experienced repeated frustration and wasted time in their attempts to track down nonexistent reference materials from the County. It would be a waste of time to duplicate the information already provided to you by The Open Monterey Project.

Of particular concern to our volunteer reviewers was the fact that the paper version of documents available at the Planning Department counter are in numerous instances not the same as the records available on the links from the County website, even though the County claims they are the same. The County should correct this inconsistency, because otherwise the County is producing two different versions of reference materials, and the public does know which version was relied upon by the EIR preparer.

Our concerns include the missing, partial, and incomplete reference materials on water, air, traffic, biology, land use, population, and other environmental issues and underlying data. Please advise us as soon as all the reference materials are available in hard copy and/or on the County website.

Thank you.

Very truly yours,

Rita Dalessio
Ventana Chapter chair

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

From: Holm, Carl P. x5103 [mailto:HolmCF@co.monterey.ca.us]
Sent: Wednesday, October 22, 2008 9:35 AM
To: puffin@mbay.net
Cc: Girard, Leslie J.; Strimling, Wendy; Knaster, Alana x5322; McKee, Charles J.; Novo, Mike x5192; 100-District 1 (831) 647-7991; 100-District 2 (831) 755-5022; 100-District 3 (831) 385-8333; 100-District 4 (831) 883-7570; 100-District 5 (831) 647-7755
Subject: RE: GPU 5

Ms Dalessio:

Mike Novo is out of the office this week.

1

O-20b

Reference documents are available in various formats. Many are made available via the web, others are available at our front counter in hard copy. Please specify the reference materials that you are having difficulty with and we will be more than willing to assist you to help find them.

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

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

From: "rita" <puffin@mbay.net>
To: "Novo, Mike x5192" <novom@co.monterey.ca.us>
Cc: "105-Clerk to the Board Everyone" <105-ClerktotheBoardEveryone@co.monterey.ca.us>; "100-District 1 (831) 647-7991" <district1@co.monterey.ca.us>; "100-District 2 (831) 755-5022" <district2@co.monterey.ca.us>; "100-District 3 (831) 385-8333" <district3@co.monterey.ca.us>; "100-District 4 (831) 883-7570" <district4@co.monterey.ca.us>; "100-District 5 (831) 647-7755" <district5@co.monterey.ca.us>; "McKee, Charles J" <McKeeCJ@co.monterey.ca.us>
Sent: 10/21/08 10:58 AM
Subject: GPU 5

Hi Mike,

The Ventana Chapter of the Sierra Club represents 6,300 members. We are currently reviewing the Draft EIR for the GPU-5 and have been involved in all the previous versions with due diligence for over 9 years. We are concerned that reference documents for GPU 5 are not available. Members of the Chapter have tried to gain access to reference documents listed in the DEIR section 11, but were unable to do so for several of the reasons. When we contacted The Open Monterey Project (TOMP) about this problem, we learned that they had, on October 17, 2008 advised the County of this problem. Even with this notification, we note that the referenced documents remain unavailable.

We are very concerned as this appears to be a violation of CEQA (California Environmental Quality Act). CEQA requires that all documents referenced in the EIR be available for public review. The County has failed to comply with this CEQA requirement. Many of the documents referenced in the DEIR are not available, in some cases not usable or not complete. There are problems with the links on the website and in the hard copy paper documents provided by the County Planning Department.

The County has not provided adequately the documents required by law. This could mean that the public's right afforded by CEQA could be delayed which is (1) a violation of the law and (2) denies the public the opportunity to review and analyze the DEIR.

2

O-20b

As a result, we cannot adequately review the DEIR or make comments on it without access to the underlying reference data.

The Ventana Chapter joins with TOMP in their letter requesting that all complete reference documents be made available and that the public review of the Draft EIR not begin until the references are truly available.

Very truly yours,

Rita Dalessio

Ventana Chapter Chair

O-20c

32

Monterey County
Planning and Building
Inspection Administration

FEB 02 2009

RECEIVED

January 29, 2009

Comments on General Plan Update, Version 5 (GPU5)
Ventana Chapter Sierra Club

Project description is inadequate. According to CEQA guidelines (CEQA Guidelines, sec.15125), a DEIR must include a description of the project vicinity and on-the-ground conditions, from both a local and regional perspective, before project approval. Without a complete description, the DEIR cannot adequately analyze or discuss the consequences of the project.

One of the major shortcomings of DEIR Chapter 4.9, Biological Resources, is that its description of existing conditions is so flimsy and incomplete that any real analysis of the biological impacts resulting from the 2007 General Plan cannot be made. Without an accurate baseline, significance conclusions cannot be drawn and effective mitigations cannot be imposed.

The DEIR uses the introduction to the biological resources chapter to excuse itself from this most basic requirement of CEQA, stating, "The impact analysis is quantitative (where data is reasonably available) and qualitative (otherwise) and is not site-specific because of the wide geographical area covered." The attempt is unavailing. As a result of the inadequate data, the biological impact analysis is inadequate. The DEIR acknowledges Monterey County's biological significance, "Monterey County occurs within one of the richest biological regions in North America (Ricketts et al 1999; Abell et al 2000). Monterey County is especially rich in biological resources, primarily because of the diversity of unique physical characteristics: highly varied terrain, large elevation range, extensive coastline, broad range of microclimates, and diverse substrate materials....For example there are almost 3,000 species of plants that occur in Monterey County according to Calflora (2008), a database of California plants. Of these, 101 plant species are considered to be rare or sensitive by the CNPS and are listed in the CNDDB (2007)."

Given the fact that Monterey County has long been known for its rich biological resources, given the fact that many sources of biological information are listed in the DEIR, and given the fact that Monterey County has been in the process of updating its General Plan for almost a decade, please explain why the EIR concludes that data is not "reasonably available" to perform a quantitative analysis of impacts resulting from the 2007 General Plan.

O-20c

Sierra Club Comments on GPU5
January 29, 2009

Please describe the efforts the EIR preparer made to obtain data on the baseline and project impacts as to each biological issue, for example,

- each wildlife species
- each plant species
- wildlife corridors
- slope development

As to each biological issue, please explain which sources the EIR preparer used to seek data.

As to each biological issue, please explain what efforts the EIR preparer made to combine biological data from various sources.

Please identify each biological issue for which the EIR preparer determined there was sufficient "reasonably available data" for which to perform a quantitative analysis.

Please identify each biological issue for which the EIR preparer determined there was not sufficient "reasonably available data" for which to perform a quantitative analysis.

For each determination as to each biological issue, please explain who made the decision that there was or was not reasonably available data.

Please also define "qualitative analysis" and provide a specific example of qualitative biological analysis found in the DEIR .

For each analysis in the biological chapter, please identify which analysis is quantitative and which qualitative. It is not clear to the public which is which. Unless the public has a clear understanding of which analyses were based on hard data (and the extent of the data), and which were based on mere extrapolation and guessing, the public cannot adequately review the EIR discussion.

Vegetation types, critical habitats and sensitive vegetation communities are specific *sites* upon which sensitive plant and animal species depend. Please explain the statement that Monterey County's "wide geographical area" makes site-specific analysis in the General Plan impossible, as the DEIR claims. This claim makes no sense – there are different biological issues throughout the County, each due to existing site-specific conditions and site-specific impacts caused by the proposed General Plan Update. It makes no sense to claim that a site-specific analysis cannot be done.

This DEIR claim is contradicted by the DEIR's support for policies OS-5.1 and OS-5.2. Although these policies are deficient as mitigation, they will provide baseline information.

- OS-5.1 calls for the county to inventory special status species and for the county to map the extent and acreages of their critical habitats;

2

O-20c

Sierra Club Comments on GPU5
January 29, 2009

- OS-5.2 calls for the county to inventory and map suitable habitat for special status plant and animal species and for the county to enter the information in its GIS system.

Obviously, OS-5.1 and OS-5.2 call for the compilation of site-specific information county-wide, which would describe the current baseline – a fundamental step in the analytical process. Because CEQA mitigations must be feasible, the EIR preparer evidently concluded that the actions described in OS-5.1 and OS-5.2 are feasible. This conclusion contradicts the EIR conclusion that such information cannot be gathered due to the county's "wide geographic area." Please respond.

Please explain why the DEIR asserts that establishing a baseline *before* adoption of the General Plan is infeasible. Please provide all analysis and facts that went into that discussion.

Please explain the DEIR conclusion that impacts to sensitive biological resources due to development under the 2007 General Plan are mitigated to a less than significant level, given that no baseline information about those resources was available prior to drawing that conclusion. How can the DEIR draw a conclusion without any data to support it?

As mentioned above, policies OS-5.1 and OS-5.2 are deficient as mitigation measures. Neither contains a timeframe in which these inventory and mapping tasks will be completed; neither designates the agency responsible for completing the task; neither policy specifies how the mapped and inventoried information will be used; neither policy specifies activities, programs, or permit constraints that will be implemented to protect these biological resources. Neither is funded. Neither process described public involvement, or the County's accountability in preparing an accurate inventory. And because both measures are after-the-fact, the General Plan Update policies will have already taken effect and caused changes to the biological resources before the inventories are complete, which means that a true pre-project baseline will not be prepared.

Protecting Monterey County's biological resources is urgent. It is not adequate to begin inventorying and mapping these resources at some unknown point in the future. According to The Nature Conservancy's California Central Coast Ecoregional Plan Update, October 2006, page 22,

"By all accepted measures the California Central Coast emerges as a region of global significance. At the global scale, the ecoregion is considered a Mediterranean habitat type. Limited to five regions worldwide, this habitat type represents only 2% of the earth's surface, yet supports 20% of the world's total floristic richness (Medial and Quezel 1999). In a recent global assessment by The Nature Conservancy, ecoregions within the Mediterranean habitat received one of the highest scores on a conservation risk index, defined as the ratio of habitat loss to habitat protected (Hoekstra et al. 2005). In their global assessments, both the World Wildlife Fund and Conservation International identified the Central Coast

3

Sierra Club Comments on GPU5
January 29, 2009

O-20c

as a biodiversity hotspot, using various richness, rarity and threat measures (Olson et al. 1998, Myers et al. 2000).”

The Central Coast Ecoregion is significant on a national level, as well. Nationwide, our region is identified as having one of the highest numbers of native taxa while at the same time having one of the highest numbers of species with restricted distributions. This combination of richness and rarity lead NatureServe to categorize the Central Coast as a biodiversity “hot spot.” Monterey County sits in the middle of an ecoregion that is “one of the six most significantly imperiled biodiversity hot spots in the nation.”

Not only is Monterey County home to numerous sensitive status species requiring protection, the county’s biological diversity, in and of itself, is a sensitive biological resource worthy of protection. Please explain why the DEIR does not analyze the project’s threats to Monterey County’s biodiversity and propose mitigations protecting it.

According to The Nature Conservancy (California Central Coast Ecoregional Update, page 28),

“Over the last few decades the natural systems of the Central Coast ecoregion have been dramatically impacted by significant changes in land use. Most notable are: suburban and rural-residential (exurban) sprawl associated with nearly every city and town; conversion of thousands of acres of historic rangeland and other natural lands to vineyards; expansion of services such as transportation corridors, groundwater pumping, water diversions and commercial developments; spread of invasive, non-native species and global warming. These trends threaten the integrity of the regional landscape and its unique, heterogeneous biodiversity patterns.”

At page 31, the Update underscores the urgency of protecting the region’s biological resources, “Given the region’s scenic qualities, mild climate and economic base, it is a highly desirable place to live and opportunities to achieve portfolio protection in the Central Coast are presumably relatively short-lived.”

Despite ample opportunity for the County to have inventoried and mapped sensitive biological resources during the decade spent updating the General Plan; despite the global and national significance of Monterey County’s biodiversity; despite accelerating land use trends that threaten it; despite the short-lived opportunity to protect these resources, the DEIR chose to defer all detailed, site-specific biological resource assessments until some unknown time after adoption of the 2007 General Plan. Due to its failure to consider, research, and disclose these resources and impacts, the DEIR is inadequate.

This wholesale deferral is unnecessary. Tools are currently available for use in Monterey County’s environmental analysis, tools which can improve mitigation measures and inform policy decisions and land-use designations. Significant inventories and mapping of species and habitats requiring protection in Monterey County have been available since 2006. In October of that year, The Nature Conservancy published

Sierra Club Comments on GPU5
January 29, 2009

O-20c

California Central Coast Ecoregional Plan Update. The update is an ecoregional assessment that “provides a dynamic science-based framework for shaping conservation actions across the ecoregion.” The update proposes a “portfolio” of conservation areas “ranging from small, isolated single-species areas covering one to several hectares to vast, target-rich areas spanning hundreds of thousand of hectares.” Figures 19 and 20 on pages 63 and 64 are maps defining numbered conservation areas. The identification numbers on the map correspond to detailed profiles found in the update’s Appendix J. (The California Central Coast Ecoregional Plan Update is attached.)

As stated above, these tools were developed by TNC in order to respond to impacts to biological resources caused by

- suburban and rural-residential (exurban) sprawl associated with nearly every city and town [as proposed here by the General Plan Update’s Community Areas, Rural Centers and Affordable Housing Overlays]
- conversion of thousands of acres of historic rangeland and other natural lands to vineyards [as proposed here by the General Plan Update’s Agricultural Winery Corridor, Routine and Ongoing Agricultural Activities, new cultivation permitted on slopes greater than 25%]
- expansion of services such as transportation corridors, groundwater pumping, water diversions and commercial developments [at issue here in public services, transportation/circulation, water resources, economic development]
- spread of invasive, non-native species [as will be the unintended consequence of several policies of the General Plan Update]
- global warming. [the General Plan Update will affect climate change, air quality]

There is a close correlation between the land-use concerns addressed by TNC and Monterey County’s development under the 2007 General Plan. Please explain why the DEIR made no use of such site-specific information in its analysis of the 2007 General Plan impacts. Please explain why the DEIR proposed to defer analysis of these critical issues until after plan adoption.

The DEIR erroneously assumes that subsequent, site-specific environmental review will assure adequate analysis and mitigation in the future. At page 4.9-2, Environmental Setting, the DEIR purports to describe the existing biological setting of Monterey County. This section contains lists of sensitive and common habitats and descriptions of each. However, the DEIR equivocates, “The actual distribution of plant communities is much more detailed than presented in this exhibit. Project-specific environmental reviews that are tiered from this EIR would need to conduct site-specific evaluation to determine presence or absence of sensitive and common plant communities within a specific project area.”

Unfortunately, there are many land-use activities envisioned in the 2007 General Plan which will proceed with non-discretionary permits and without any further environmental review. Some of the most critical are:

Sierra Club Comments on GPU5
January 29, 2009

O-20c

- Development of the Agricultural Winery Corridor, including all of the described commercial and residential buildings, parking lots, and other facilities;
- Development on legal lots of record;
- New cultivation permitted on land with slopes 25% and greater (created by policy OS-3.5);
- Routine and Ongoing Agricultural Activities (created by policy AG-3.1 through AG-3.3 and exempted from policy OS-5.4 which provides protections for special status species and critical habitat).

For the proposed Agricultural Winery Corridor development that would be exempt from further environmental review, the environmental analysis must be done now, but the DEIR fails to provide the required project-level review.

The DEIR should map the potential Agricultural Winery Corridor development under the proposed General Plan policies. The map should show the acreage impacted, and map the worst locations possible for the proposed development, and then analyze the resulting environmental impacts, and propose mitigations. This analysis must happen now, because under the proposed policies there would not be any further environmental review.

Locations of legal lots of record are in possession of the county. The EIR preparer should map the lots, provide the map to the public and use the map to determine total acreage and proximity to sensitive biological resources. It is not adequate to simply conclude, as the DEIR does on page 4.9-76, that "Legal lot development without subdivision would result in conversion of habitat, but would have highly dispersed effects on CEQA-defined special-status species and their habitat that on a landscape level is also considered less than significant."

Please provide the complete analysis, including the research performed by the EIR preparer, that led to the conclusion that this type of development would have "highly dispersed effects" when there's no evidence that legal lots of record are, in fact, highly dispersed.

Please also explain the adequacy of this conclusion given the absence of any evidence whatsoever that all legal lots of record can be developed without any significant impact on sensitive resources, including endangered species.

The EIR should map existing legal lots of record and map their proximity to identified sensitive biological resources, and provide that information in a recirculated DEIR. That information is available from County records, for example, through the County GIS system. Without that information presented and analyzed in the DEIR, the public cannot adequately review the DEIR conclusions regarding the lots.

Additionally, previously uncultivated, privately owned land on slopes 25% or greater must be mapped by the EIR preparer, and total acreage calculated. That information

Sierra Club Comments on GPU5
January 29, 2009

O-20c

should be available to the County through its GIS system. Those lands' proximity to sensitive biological resources must be determined.

The maps, the acreage calculations, and the location of sensitive biological resources should be presented to the public in a revised DEIR. Without this information, the public cannot adequately review the DEIR conclusions regarding these issues.

Separately, impacts to biological resources caused by Routine and Ongoing Agricultural activities are inadequately disclosed, identified or analyzed. Under the new General Plan policies, new lands may be converted to cultivation. These lands should be identified and mapped, and the map should be included in a recirculated DEIR. The impacts of the new policies as to Routine and Ongoing Agriculture must be quantified, and their locations shown on the map. The impacts should be mitigated. The DEIR fails to disclose or discuss this information.

In this letter, the Sierra Club points out that the generalized text of the current DEIR is inadequate without visual displays of compiled information. The Sierra Club requests that the EIR preparer prepare maps and diagrams as part of the essential impact analysis. All of the maps and diagrams should be prepared at a level to show sufficient detail to communicate the information. For example, maps should be specific enough to identify specific impacts to species, habitat, sites, wildlife corridors, and water resources. The maps should contain clear legends, and clear depictions of the information contained on the maps. The maps and diagrams should not be so general as to hide important information about potential project impacts. The maps and diagrams should be user-friendly and accessible to the public.

As appropriate, the maps and diagrams should be prepared on both a small scale and a large scale, in order to present the information in a micro and macro level regarding the impacts of the General Plan policies. Given the regional differences of the County, it is likely that certain policies will cause significant impacts in some regions, and negligible impacts in others. Therefore, it is essential that the maps and diagrams not draw County-wide conclusions as to impacts, because that would dilute and skew the results. Because most impacts will occur in specific areas, the EIR analysis should respect and reflect that fact, and disclose the information in appropriately scaled maps. And where impacts occur over a larger region, the EIR map analysis should also disclose that information in larger scale maps and diagrams, in order to better communicate the information and disclose it for public review.

The DEIR should not assume, as it appears to do, that subsequent environmental reviews will repair the DEIR's inadequacies. The Biological Resources chapter must be revised to include analysis and mitigation of all land-use activities allowed under the 2007 General Plan, especially those activities that will proceed without further environmental review or mitigation.

O-20c

Sierra Club Comments on GPU5
January 29, 2009

Furthermore, weak and unenforceable policies will undermine environmental mitigation of future land use activities even when they do require a discretionary permit.

For example, Greater Monterey Peninsula Area policies which claim to fully mitigate impacts to biological resources are inadequate to address future threats to one of its most sensitive and rare plant communities – native stands of Monterey Pine forest. This plant community exists in only five places on earth – the Monterey Peninsula, San Simeon State Park/Cambria, Ano Nuevo/Waddell Creek and 2 islands off the coast of Baja California, Mexico: Guadalupe and Cedros. The Monterey Pine has been listed by the California Native Plant Society as rare, threatened or endangered. It is also considered by the US Fish and Wildlife Service to be a species of special concern. Native stands of Monterey Pine forest are found in non-coastal areas of the Monterey Peninsula, primarily around Jacks Peak (Pacific Meadows and September Ranch), Aguajito, the Old Capitol site and a small portion of Palo Corona.

Given its rarity, the few remaining native stands of Monterey Pine Forest in both the coastal zone and in non-coastal areas deserve protection not found in the 2007 General Plan. These forest stands can be protected as long as they, and adjoining areas, are clearly mapped and placed in overlay districts where land use activities are regulated by clear, enforceable guidelines designed to conserve the forest.

Instead, protection through 2030 for special status species, like the Monterey Pine Forest, hinges upon policies GMP-3.4 through GMP-4.1.

- GMP-3.4 states, “Plant materials shall be used to integrate manmade and natural environments, to screen or soften the visual impact of new development and to provide diversity in developed areas.” *How does this policy reduce impacts to Monterey Pine Forest to a less than significant level? Since it does not require use of habitat-specific native plants, how can this policy even claim to slightly reduce impacts?*
- GMP-3.5 states, “Development in the Greater Monterey Peninsula area shall be designed to prevent, to the maximum extent feasible, the destruction of native oak, pine, and redwood forest habitat and wetlands in the Greater Monterey Peninsula Area Plan area.” *“Maximum extent feasible” is not defined. Please describe the process and the factors that will be considered in determining “maximum extent feasible.” If “maximum extent feasible” does not mean that the county may prohibit some projects or may require projects to be substantially modified, how can the DEIR conclude that Monterey Pine forest and other sensitive habitats will be protected against significant impacts?*
- GMP-3.8 states, “Open space areas should include a diversity of habitats with special protection given to ecologically important zones such as areas where one habitat grades into another and areas used by wildlife for access routes to water or feeding grounds.” *“Should” is not enforceable. Who will be responsible for enforcing this policy? How will it be enforced and when? Since, as noted above, the 2007 General Plan and its DEIR are not site-specific, will this policy require*

3

O-20c

Sierra Club Comments on GPU5
January 29, 2009

land-use classifications be changed? If not, how will this policy protect open space like the Monterey Pine forest? Please explain how this policy reduces impacts to a less than significant level when there are no standards and no plans for implementation.

- GMP-3.9 states, “Critical habitat areas should be preserved as open space. When an entire parcel cannot be developed because of this policy, a low intensity, clustered development may be approved. However, the development should be located on those portions of the land least biologically significant so that the development will not upset the natural function of the surrounding ecosystem.” *Again, “should” and “may” are not enforceable. What criteria will be used and who will determine whether a project would “upset the natural function” of an ecosystem? How is a “low intensity, clustered development” defined? What criteria will be used to identify such a development? Who will develop the criteria and when will the criteria be developed? Since this policy does not require clearly defined, low-intensity, clustered development in the event a project falls entirely within critical habitat, how can it reduce biological impacts, much less reduce them to a level below significance?*
- GMP-4.1 states, “Redwood, pine, and oak forest and chaparral habitat on land exceeding 25 percent slope should remain undisturbed due to potential erosion impacts and loss of visual amenities.” *Instead of requiring that they remain undisturbed, the policy states that these lands “should” remain undisturbed. How would this prevent development in these forests on steep slopes? If this policy protects forests in the Greater Monterey Peninsula Area Plan area, why is it not also applied to all pine, redwood and oak forests throughout Monterey County?*

Without extensive modification, these 2007 General Plan policies do nothing to protect sensitive biological resources like the Monterey Pine Forest.

The DEIR fails to provide information about expansion of incorporated towns and cities. Nowhere in the biological resources analysis does the DEIR provide any information about the current footprint of any of the county’s incorporated towns and cities. Nor does the DEIR provide any mapping, acreage totals or habitat impacts resulting from the likely expansion of these towns and cities as envisioned in their general plans and annexation proceedings. This information is important because while existing towns and cities may contain limited habitat, their expansion areas may encroach on habitat and/or wildlife corridors. Furthermore, this information must be considered cumulatively with the General Plan’s proposed Community Areas, Rural Centers, Affordable Housing Overlays, existing lots of record, potential new cultivation on slopes of 25% or greater, and the Agriculture Winery Corridor development.

Because the DEIR has provided individual maps for Community Areas, Rural Centers, Affordable Housing Overlays and Winery Corridors and omitted any mapped information about these other land-use activities, the public has no real basis for understanding the total development footprint envisioned in the 2007 General Plan. Therefore, the public

3

4

Sierra Club Comments on GPU5
January 29, 2009

O-20c

has no realistic basis for determining how growth under the 2007 General Plan will or may impact mapped biological resources. Please provide this information.

4

Escaping further environmental reviews isn't the only problem with the DEIR's analysis of the proposed Winery Corridor. The DEIR's assumptions about trends in land conversion are faulty. The DEIR's assumptions about new winery processing capacity grossly underestimate the incentive to establish new vineyards. This, in turn, skews the DEIR analysis of impacts to biological resources and water resources.

For example, the DEIR arbitrarily calculates winery capacity, stating at page 4.3-120, "40 artisan wineries will be built by 2030, each averaging a production rate of 25,000 cases per year by that time." However, by definition, an artisan winery can produce up to 50,000 cases per year. The DEIR underestimates, by half, total capacity of the artisan wineries, thereby underestimating the potential impacts of that development.

Similarly, the DEIR underestimates the processing capacity of the full-scale wineries. "The full-scale wineries will reflect the following numbers and production rates by 2030: 5 producing 75,000 cases per year; 2 producing 175,000 cases per year; and 1 each producing 375,000, 750,000 and 1.5 million cases yearly." (DEIR page 4.3-120) However, by definition, full-scale wineries can produce up to 2,000,000 cases per year each. The DEIR analysis again underestimates the potential impacts of that development.

5

At full capacity, the artisan wineries in combination with the full-scale wineries would be able to produce 22,000,000 cases of wine per year. This figure is calculated by multiplying the number of artisan wineries by their full capacity of 50,000 cases per year (40 x 50,000 = 2,000,000). To this is added the full capacity of full-scale wineries (10 x 2,000,000 = 20,000,000) for a total capacity of 22,000,000 cases per year.

By comparison, using the DEIR's unsupported assumptions, the DEIR estimates total processing capacity of only 4,350,000 cases -- a mere 20% of the capacity that would be allowed by definition. (40 artisan wineries @ 25,000 cases = 1,000,000 cases; 5 full-scale wineries @ 75,000 cases = 375,000 cases; 2 full-scale wineries @ 175,000 cases = 350,000 cases; Total: 1,000,000 + 375,000 + 350,000 + 375,000 + 750,000 + 1,500,000 = 4,350,000) *Again, without any evidence to support it, the DEIR underestimates total winery capacity by 80%.*

Not only is there no evidence to support the DEIR's estimate, the estimate contradicts stated industry objectives. The impetus behind the winery corridor, according to both the DEIR and the Monterey County Vintners and Growers Association, is to increase wine grape processing capacity in Monterey County. According to the industry, they lack processing facilities for 70% to 80% of the grape harvest.

To repeat, according to the DEIR, all the new wineries together will process no more than 4,350,000 cases of wine annually, far below the maximum permitted under the proposed General Plan policies. What do the 4,350,000 cases translate into in terms of tonnage and

10

Sierra Club Comments on GPU5
January 29, 2009

O-20c

acreage? According to the March 27, 2002 Monterey County Environmental Impact Report Public Review Draft, page 5.2-56, Land Use Element, the average yield of wine per ton of wine grapes is 62.5 cases. This yield, under the DEIR analysis, would translate into an increase of 69,600 tons of grapes being processed in Monterey County by 2030 (4,350,000 cases divided by 62.5 cases per ton).

To give this some perspective, existing grape production in Monterey County is well in excess of 69,600 tons. As a matter of fact, according to the 2007 Monterey County Crop Report, Monterey County growers and vintners produced 224,000 tons of wine grapes during 2007. (Monterey County Agricultural Commissioner, Monterey County Crop Report 2007, p. 13, Grape Production) If, as Monterey County Growers and Vintners allege, there is a 70% to 80% shortfall in processing capability, there is an *immediate need* for processing facilities to handle between 157,000 and 179,000 tons of grapes grown in Monterey County.

Given winery capacity and given the stated objectives of the industry, the DEIR's assumption -- that by 2030 wine grape processing in Monterey County will not have expanded enough to even accommodate half of 2007's local grape harvest -- is totally unsupported. The DEIR analysis should be revised to address the more likely expansion of the winery facilities to a much greater level, as would be allowed under the proposed General Plan. Given that the General Plan proposes to allow the entire Winery Corridor, with its wineries, hotels, restaurants, residences, gas stations, and other support facilities, to proceed without further environmental review, the analysis in this EIR is particularly critical.

5

The DEIR also fails to analyze how increased processing capacity will create incentives to increase vineyard acreage. How much land would be needed to grow 22,000,000 cases worth of wine grapes? If all of the wineries permitted within the corridor operate at full capacity (22,000,000 cases), they would be able to process grapes harvested from 62,411 acres. This acreage is calculated by dividing 22 million cases by 62.5 cases/ton = 352,000 tons. 352,000 cases divided by 5.64 tons per acre = 62,411 acres. (Source for cases per ton: Monterey County Environmental Impact Report Public Review Draft -- March 27, 2002, Land Use Element, page 5.2-56. Source for tons per acre: Monterey County Agricultural Commissioner, Monterey County Crop Report 2007, p. 13, Grape Production.)

The 2007 Monterey Crop Report shows total grape acres at 42,764. Winery capacity within the winery corridor alone would accommodate an additional 20,000 acres of wine grapes in Monterey County. This is a significant incentive to convert more undeveloped land to vineyards, including land of 25% slope or greater, but the DEIR fails to analyze this issue.

Additional incentives to convert land to vineyard acreage would be created by winery development outside of the winery corridor, as proposed by the General Plan. Policy AG-4.4 makes it clear that the AWC policies are not intended to limit winery development outside the corridor: "These policies do not limit the development of

11

Sierra Club Comments on GPU5
January 29, 2009

O-20c

wineries within or outside of the designated winery corridor. Wineries outside of the designated winery corridors and additional wineries within the corridors beyond those specifically listed are allowed, subject to conformance with all regulations of the underlying zoning district." In other words, it would be "no holds barred" on the development of vineyards in the County, under the new policies of the proposed General Plan. The DEIR fails to disclose, investigate, or analyze this issue or its impacts.

Furthermore, no reason exists to assume that all of the grapes grown in Monterey County will be processed in Monterey County. Even though vintners complain that 70% to 80% of Monterey's grape harvest must be exported for processing, the fact is, exporting grapes must be profitable because Monterey County Vintners have been exporting them for decades. No evidence in the DEIR indicates that exporting grapes will cease being profitable. For this reason and for the reasons stated above, the DEIR should analyze the impacts of converting an additional 62,000 acres of land to vineyard, not just analyzing the impacts of converting an additional 20,000. (This is not far-fetched; it is a reasonable estimate of 82,000 acres. On August 1, 2001, in a Monterey County Herald article, attached, headlined "All signs point to help for wineries," Agricultural Commissioner Eric Lauritzen stated that there is a potential of developing up to 100,000 acres of land for vineyards.)

5

The DEIR, however, estimates agricultural conversion of existing habitat to be a mere 450 acres per year. The DEIR (page 4.9-46, Table 4.9.6) skews the results by taking the average over the 25-year period of 1982 to 2006. It completely ignores the accelerating trend from 1996-2006, a decade in which almost 70% of the total conversion took place. The DEIR's selection of the average rate, instead of the rate from the last ten years, is arbitrary. For a more accurate analysis, the DEIR should recalculate the impacts, using the more recent rate, and disclose and discuss the results in a recirculated DEIR.

Thus, despite more recent trends, despite the huge processing capacity allowed by the AWCP policies, despite the stated objectives of the wine industry, despite the fact that policy OS-3.5 permits new cultivation on slopes of 25% or greater (which was previously prohibited in Monterey County), the DEIR ignores all this information, and severely underestimates agricultural conversion of habitat under the proposed General Plan policies. The DEIR's unrealistic estimate of 450 acres per year, in turn, causes the DEIR to under-assess the impacts of land conversion.

The Agriculture Winery Corridor policies, taken in combination with routine and ongoing agricultural activities and with steep-slope cultivation permitted by OS-3.5, create a triple threat to sensitive habitats and species throughout Monterey County, and especially in the Salinas Valley. We attach to these comments a document entitled "Distribution of Native Vegetation by Slope Categories in Monterey County." This is a table compiled and analyzed by The Nature Conservancy which is based on the following sources: California Natural Diversity Data Base, CALVEG vegetation layers, GAP vegetation layers, USGS species data, CDF Multisource and Cover Data, USFWS species data, NWI wetlands data, Rana Creek Ranch County-wide vegetations mapping, TNC Central Coast Ecoregional Plan Update. The table lists vegetation types on slopes of 25% or greater for

Sierra Club Comments on GPU5
January 29, 2009

O-20c

lands that are protected and unprotected. Unprotected lands are privately held non-urban lands without conservation easements. The data reveals that in Monterey County, approximately 44% (932,199 acres) of land is on slopes of 25% or greater. Of that land, approximately 504,830 acres are privately owned and not protected by a conservation easement. This information is absent from the DEIR.

Nowhere in the DEIR is there an analysis of the potential impacts of expanding vineyard acreage or of expanding any other agricultural activity categorized as routine and ongoing onto 504,830 acres. All of that private land would be open to development under the proposed General Plan policies allowing slope development, but the DEIR fails to research, disclose, discuss, or analyze this critical environmental information or the environmental impacts of the Plan on that acreage.

The EIR preparer should prepare a map showing the location of the 504,830 acres. That map should be able to be overlain with the maps of the sensitive species, wildlife corridors, and other biological resources. This information is available to the County, and it is essential that it be identified and disclosed here in a recirculated EIR. Without the information presented in a cognizable fashion, the EIR preparer and the public cannot know the extent or nature of the full range of impacts caused by the project. The Sierra Club has repeatedly raised many concerns about the proposed policy change to allow new cultivation of steep slopes. The DEIR does not adequately address those concerns, and seems to not understand the magnitude or complexity of the impacts of the proposed policy. The DEIR should be revised to include analysis of the following potential significant impacts of the proposed policy that would allow new cultivation of steep slopes:

5

- Water quality degradation from upstream impacts like siltation and slides and degradation of stream-bed quality, as well as pollution from agricultural chemicals.
- General erosion impacts on creeks, streams and rivers, and their fisheries and other aquatic species, as well as impacts on downstream neighbors.
- Watershed infiltration impacts, especially the damage caused by deep ripping for vineyard establishment.
- The impacts caused by deep ripping on biological resources and air resources.
- Water demand for the cultivation, including the quantification of pumping, the water loss from water systems, and the impacts of drilling new wells.
- Water supply impacts, such as de-watering of streams and creeks, resulting from new groundwater pumping and surface diversion.
- Air quality impairment from both air-borne dust and agricultural chemicals.

Sierra Club Comments on GPU5
January 29, 2009

O-20c

- Grading impacts such as changing land forms and moving surface drainage underground.
- Interruption of wildlife corridors caused by fencing, new service and access roads, noise, vegetation clearing, elimination of prey species, destruction of water sources, introduction of pest species.
- Habitat impacts.
- Viewshed impacts.
- Listed plant and animal species impacts.
- Locally-important plant and animal species impacts.
- Noise impacts resulting from grading, clearing, maintenance, and harvesting operations.
- Incompatible uses. (When steep slopes are opened up in residential or rural residential neighborhoods, incompatibility results. This has been an ongoing problem in Carmel Valley and elsewhere where violations of the existing policies created conflicts of health and safety for neighbors.)

5

The revised analysis should be included in a revised DEIR and recirculated for public comment. Because the current DEIR lacks the above information and analysis, the public cannot adequately review or comment on it.

Finally, notwithstanding the fundamentally flawed analysis of biological resources, the DEIR significance findings based upon General Plan policies and the DEIR mitigations cannot be supported. On the whole, the DEIR's findings and mitigation measures are infeasible, unfunded, unenforceable and/or improperly deferred.

Additional issue: Rancho San Carlos (aka, "The Preserve"): The Sierra Club and the Carmel Valley Association have previously brought to the County's attention the issue of the GPU's handling of Rancho San Carlos. Specifically, GPU/5 at page 3-31, states that development of Rancho San Carlos shall be based on County "Resolution 93-115".

Please discuss whether Resolution 93-115 was amended or affected by Measure M, a successful November 1996 County-wide referendum, or any other subsequent resolution, ordinance, or ballot measure and, if so, what those changes are and what impact they have on Resolution 93-115.

6

Please discuss what the current legal restrictions are for this site. Did Measure M or any other action taken after Resolution 93-115 was enacted eliminate any specific zoning regulations that had been enacted or permitted as part of Resolution 93-115, such as zoning that would have allowing heavy and light commercial, visitor accommodation,

Sierra Club Comments on GPU5
January 29, 2009

O-20c

visitor-serving, professional, and medium density residential development at Rancho San Carlos?

If you conclude that Measure M has no bearing on the effect of Resolution 93-115, please explain your conclusion in detail, and state the specific legal analysis used by you. If you conclude that Resolution 93-115 is fully in effect and has not been amended or limited, please discuss in detail the environmental impacts that the increased commercial and other development activity at this site would create.

6

Thank you,

Gillian Taylor, Conservation Co-Chair
Ventana Chapter Sierra Club

Attachments: Distribution of Native Vegetation on Slopes in Monterey County
Winery Article, The Herald, 8/1/01
Winery Corridor Section and Maps, GPU 2 DEIR March, 2002
California Central Coast Ecoregional Plan Update Oct. 2006

CC: Clerk to the Board of Supervisors

09/09/2008 16:02 831-373-0242 STAMP LAW PAGE 81/85 O-21a

**LAW OFFICES OF
MICHAEL W. STAMP**

Facsimile (831) 373-0242 479 Pacific Street, Suite 1
Monterey, California 93940 Telephone (831) 373-1214

September 9, 2008

Carl Holm, Assistant Planning Director
County of Monterey
168 W. Alisal Street, 2d Floor
Salinas, CA 93901

Subject: Draft Environmental Impact Report for GPU-5
Missing Appendix; DEIR Not Available at Local Libraries

Dear Mr. Holm:

This office represents The Open Monterey Project. The County has released the Draft EIR for the GPU-5 in hard copy bound paper, on CD, and on the County website.

New Appendix Added Days after Release of Draft EIR to Public

Just today, we noted a new appendix was added to the County website that was not there on September 5-7, 2008. Newly added to the County website is a document entitled "Appendix C - Traffic Data." That appendix is not shown on the Table of Contents on the DEIR on the County website (attached). There is no announcement on the website that a new appendix was added. Anyone who has already looked at the County website to view the DEIR would not know there was a new addition at the very bottom of the page. A viewer must scroll down for a long way to find the new addition, which, printed out, is at the bottom of page 3 of 3.

This was apparently an error in the release for public review, which the County should correct. County should make sure that everyone who purchased a CD or hard copy got Appendix C, and that the hard copies in libraries include Appendix C. All DEIR versions should be complete. Are there any other errors in the DEIR distribution? Only after all errors are corrected and communicated to those who purchased DEIRs so they have complete versions should the 45-day public review period start running.

Would you please tell us whether there are any other errors or differences between the hard copies of DEIR, the DEIR on the CDs, and the electronic version available on the County website? For example, do any of the versions contain any records that any other versions do not have, such as exhibits, maps, appendices, or technical appendices? We would appreciate your clarification of this issue.

No Draft EIR Available At Libraries

As of this afternoon, September 9, there is still no DEIR available at the Monterey library. The Pacific Grove library does not have a DEIR. The Carmel library

09/09/2008 16:02 831-373-0242 STAMP LAW PAGE 82/85 O-21a

Carl Holm
September 9, 2008
Page 2

does not have the DEIR. The Prunedale library is the only library we found so far that has the DEIR, but its version does not contain Appendix C. This information is based on conversations our Office has had with the Reference desk at each library.

Under CEQA Guidelines, section 15087(g), "lead agencies should furnish copies of draft EIRs to public library systems serving the area involved." The County of Monterey has, as a standard procedure, distributed copies of its County planning documents for major County projects to the Monterey, Pacific Grove, and Carmel libraries. For example, the Monterey library has the GPU-5 plan documents, and should have the DEIR on the GPU-5. The County's apparent exclusion of city libraries from the GPU-5 DEIR distribution is contrary to the County's past practice, and is inconsistent with the CEQA Guidelines and CEQA's goal of a reasonable public review period.

Until the complete DEIRs are available in the manner required by CEQA, the 45-day public review period should not begin to run.

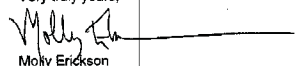
Other Concerns

We question the County statement on the website that "comments will be received until 4:00 p.m. Monday, October 20, 2008." It seems unreasonable that the County would refuse to accept comments made between 4 and 5 PM on the final day, whatever that corrected date will be after it has been adjusted for errors in distribution.

There are some clerical errors to which we draw your attention so they can be corrected because, if left unchanged, they may cause some confusion. The notice of availability and the County website state that the DEIR was released "Wednesday, September 5." September 5, 2008 was a Friday. Also, on the Table of Contents, page 1, the pages for the Tables and Exhibits are incorrectly stated.

Please provide us with a copy of the County's notice of availability for the DEIR, all corrected notices of availability, and a copy of the notices published in the Monterey County Herald and Salinas Californian.

Thank you for your professional courtesy.

Very truly yours,

Molly Erickson

Attachments:
1. Table of Contents, DEIR, p. v (from County website, September 9, 2008)
2. Printout from County website showing newly added Appendix C

09/09/2008 16:02 031-373-0242 STAMP LAW PAGE 03/06

O-21a

5.8	Environmentally Superior Alternative.....	5-59
Section 6	Other CEQA Required Sections	6-1
6.1	Significant Environmental Effects That Cannot Be Avoided.....	6-1
6.2	Significant Irreversible Environmental Effects.....	6-1
6.3	Growth Inducement.....	6-2
6.3.1	Conclusion.....	6-3
6.4	Cumulative Impacts.....	6-3
6.4.1	In General.....	6-3
6.4.2	Approach to this Analysis.....	6-5
6.4.3	2007 General Plan Cumulative Impacts.....	6-8
Chapter 7	Persons and Organizations Consulted.....	7-1
7.1	Public Agencies.....	7-1
7.2	Private Parties and Organizations.....	7-2
Section 8	List of Preparers	8-1
8.1	County of Monterey.....	8-1
8.2	Consultants.....	8-1
Section 9	List of Acronyms and Abbreviations	9-1
9.1	List of Acronyms.....	9-1
9.2	List of Abbreviations.....	9-4
Section 10	Glossary	10-1
10.1	Glossary.....	10-1
Section 11	Documents, Plans, and Reports Cited.....	11-1

Appendix A Notice of Preparation

Appendix B Greenhouse Gas Emissions Inventory and Forecast Methodology

Draft Environmental Impact Report
Monterey County 2007 General Plan
Monterey County, California

September 2008
J45 00982.07

09/09/2008 16:02 031-373-0242 STAMP LAW PAGE 04/05

O-21a

County of Monterey
RESOURCE MANAGEMENT AGENCY
PLANNING DEPARTMENT

Home | Department Information | Planning Information | Public Information | Documents & Reports

Draft General Plan Update January 2007
http://www.co.monterey.ca.us/planning/gpu/2007%20GPU%20DEIR...

2007 GENERAL PLAN DRAFT EIR (September 2008)

(All files are available in Complete Hardcopy for the 2007 General Plan Draft EIR (September 2008) \$200.00. Also in .pdf Format. CDs of this document may be purchased for \$5.00 from Monterey County Planning Department at 168 West Alisal in Salinas)

Complete Set of Documents Combined

- 2007 DEIR - Volume I (263, mb, pdf)
- 2007 DEIR - Volume II (13, mb, pdf)

(All Documents Separated Below)

Cover Pages

- 2007 DEIR Cover Page - Volume I
- 2007 DEIR Cover Page - Volume II
- DEIR Cover Page for Table of Contents

Text

- Section 1 - Executive Summary
- Section 2 - Introduction
- Section 3 - Project Description
- Section 4.0 - Environmental Impacts
- Section 4.1 - Land Use
- Section 4.2 - Agriculture Resources
- Section 4.3 - Water Resources
- Section 4.4 - Geology, Soils and Seismicity
- Section 4.5 - Mineral Resources
- Section 4.6 - Transportation
- Section 4.7 - Air Quality
- Section 4.8 - Noise
- Section 4.9 - Biological Resources
- Section 4.10 - Cultural Resources
- Section 4.11 - Public Services and Utilities
- Section 4.12 - Park, Recreation and Open Spaces
- Section 4.13 - Hazards and Hazardous Materials
- Section 4.14 - Aesthetics, Light and Glare
- Section 4.15 - Population and Housing
- Section 4.16 - Climate Change
- Section 5 - Alternatives Introduction
- Section 5 - Other CEQA
- Section 7 - Persons and Organizations Consulted
- Section 8 - List of Preparers
- Section 9 - List of Acronyms and Abbreviations
- Section 10 - Glossary
- Section 11 - Documents, Plans and Reports Cited

Exhibits

- Exhibit 1.1 - Regional Location Map
- Exhibit 2.1 - Area Plan Map
- Exhibit 2.2 - Land Use Map
- Exhibit 2.2a - Land Use North County
- Exhibit 2.2b - Land Use Salinas Valley North Map
- Exhibit 2.2c - Land Use Salinas Valley South Map
- Exhibit 3.3 - Planning Areas

1 of 3

9/9/2008 12:22 PM

09/09/2008 16:02 831-373-9242 STAMP LAM PAGE 25/86
 raft General Plan Update January 2007 http://www.co.monterey.ca.us/planning/gpu/2007%20GPU%20DEIR... O-21a

- Exhibit 3.4 - North County Land Use Plan Area Map
- Exhibit 3.5 - Greater Salinas Land Use Plan Area Map
- Exhibit 3.6 - Central Salinas Valley Land Use Plan Area Map
- Exhibit 3.7 - Greater Monterey Peninsula Land Use Map
- Exhibit 3.8 - Carmel Valley Master Plan Land Use Map
- Exhibit 3.9 - Fort Ord Master Plan Land Use Map
- Exhibit 3.10 - Toro Area Plan Land Use Map
- Exhibit 3.11 - Cachagua Land Use Plan Map
- Exhibit 3.12 - South County Area Plan Land Use Map
- Exhibit 3.13 - Agriculture and Winery Corridor Area Plan
- Exhibit 3.14 - Redwood Community Area Map
- Exhibit 3.15 - Castroville Community Area Aerial Map
- Exhibit 3.16 - Chualar Community Area Aerial Map
- Exhibit 3.17 - Fort Ord Community Area Aerial Map
- Exhibit 3.18 - Pajaro Community Area Aerial Map
- Exhibit 3.19 - Bradley Rural Center Aerial Map
- Exhibit 3.20 - River Road Rural Center Aerial Map
- Exhibit 3.21 - Lockwood Rural Center Aerial Map
- Exhibit 3.22 - San Ardo Rural Center Aerial Map
- Exhibit 3.23 - Pine Canyon (King City) Rural Center Aerial Map
- Exhibit 3.24 - Plevin Rural Center Aerial Map
- Exhibit 3.25 - San Juanes Rural Center Aerial Map
- Exhibit 3.26 - Affordable Housing Overlay, Mid-Valley
- Exhibit 3.27 - Affordable Housing Overlay, Monterey Airport and Vicinity
- Exhibit 3.28 - Affordable Housing Overlay, Hwy 68 and Reservation Road
- Exhibit 4.2.1 - Important Farmland
- Exhibit 4.2.2 - Williamson Act Land
- Exhibit 4.3.1 - Monterey County Watersheds
- Exhibit 4.3.2 - Salinas River Watershed
- Exhibit 4.3.3 - Salinas Valley Groundwater Basin
- Exhibit 4.3.4 - Carmel River Watershed
- Exhibit 4.3.5 - Carmel River Groundwater Basin
- Exhibit 4.3.6 - North County Watersheds
- Exhibit 4.3.7 - North County Groundwater Subareas
- Exhibit 4.3.8 - 1998 Nitrate Concentrations for Wells in the Salinas Valley Groundwater Basin
- Exhibit 4.3.9 - Sea Water Intrusion at 180-Foot Aquifer, Salinas Valley Groundwater Basin
- Exhibit 4.3.10 - Water Intrusion at 400-Foot Aquifer, Salinas Valley Groundwater Basin
- Exhibit 4.3.11 - Sea Water Intrusion at North County Groundwater Subarea
- Exhibit 4.3.12 - District Map of Water Management Districts
- Exhibit 4.3.13 - FEMA Flooding
- Exhibit 4.3.14 - Impaired Water Bodies
- Exhibit 4.4.1 - Regional Faults
- Exhibit 4.4.2 - Ground Shaking Hazards
- Exhibit 4.4.3 - Relative Liquefaction Potential
- Exhibit 4.4.4 - Earthquake Induced Landslide Susceptibility
- Exhibit 4.4.5 - Soil Erosion Research
- Exhibit 4.5.1 - Mineral Resources
- Exhibit 4.5.2 - Abandoned Mines
- Exhibit 4.6.1 - Existing Highways and Roads
- Exhibit 4.6.2 - Roadway Level of Service
- Exhibit 4.6.3 - Transit Options
- Exhibit 4.6.4 - Passenger Rail Service Options
- Exhibit 4.6.5 - Existing Bicyeways
- Exhibit 4.6.6 - Study Area Network
- Exhibit 4.6.7 - Existing Plus Project 2030 Roadway Level of Service
- Exhibit 4.6.8 - 2030 Cumulative Plus Project Roadway Level of Service
- Exhibit 4.6.9 - Existing Plus Project Roadway Level of Service
- Exhibit 4.6.10 - Buildout Cumulative Plus Project Roadway Level of Service
- Exhibit 4.6.11 - Agriculture and Wine Corridor Area
- Exhibit 4.8.1 - Existing Noise Contours, Airports

7 of 1 9/9/2008 12:22 PM

09/09/2008 16:02 831-373-9242 STAMP LAM PAGE 25/86
 raft General Plan Update January 2007 http://www.co.monterey.ca.us/planning/gpu/2007%20GPU%20DEIR... O-21a

- Exhibit 4.8.2a - Existing Noise Contours, Stationary Sources
- Exhibit 4.8.2b - Existing Noise Contours, Stationary Sources
- Exhibit 4.8.3a - Existing Noise Contours, Roadways, South County
- Exhibit 4.8.3b - Existing Noise Contours, Roadways, North County
- Exhibit 4.8.3c - Existing Noise Contours, Roadways, Greater Salinas
- Exhibits 4.8.3d - Existing Noise Contours, Roadways, Greater Monterey Peninsula, Carmel Valley and Toro
- Exhibits 4.8.3e - Existing Noise Contours, Roadways, Central Salinas Valley
- Exhibit 4.8.4 - FTA Vibe
- Exhibit 4.9.1 - Vegetation Cover, Monterey County
- Exhibit 4.9.2 - General Plan 2007 Plan Areas, Habitats North County
- Exhibit 4.9.3 - General Plan 2007 Plan Areas and Habitats Salinas Valley North
- Exhibit 4.9.4 - General Plan 2007 Plan Areas and Habitats Salinas Valley South
- Exhibit 4.9.5 - Critical Habitat, Monterey County
- Exhibit 4.9.6 - Land Use Conversion, 1982 - 2006, Monterey County
- Exhibit 4.9.7 - Land Use Conversion, 1982 - 2006, North County
- Exhibit 4.9.8 - Land Use Conversion, 1982 - 2006, Salinas Valley North
- Exhibit 4.9.9 - Land Use Conversion, 1982 - 2006, Salinas Valley South
- Exhibits 4.10.1 - Paleontological Resources
- Exhibits 4.10.2 - Archaeological Sensitivity
- Exhibit 4.10.3 - Historic Resources
- Exhibit 4.11.1 - Fire Protection Appendices
- Exhibit 4.11.2 - School Districts
- Exhibit 4.12.1 - Parks and Open Space
- Exhibit 4.13.1 - Wildland Fire Hazards
- Exhibit 4.14.1 - Visual Resource Areas
- Exhibit 4.14.2 - Scenic Highway Corridors and Visual Sensitivity - Cachagua
- Exhibit 4.14.3 - Scenic Highway Corridors and Visual Sensitivity - Central Salinas Valley
- Exhibit 4.14.4 - Scenic Highway Corridors and Visual Sensitivity - Greater Monterey Peninsula
- Exhibit 4.14.5 - Scenic Highway Corridors and Visual Sensitivity - North County
- Exhibit 4.14.6 - Scenic Highway Corridors and Visual Sensitivity - Toro Area

Appendices

- Appendix A - Notice of Preparation
- Appendix B - Greenhouse Gas Emissions Inventory and Forecast Methodology
- Appendix C - Traffic Data

Downloading Notes:
 All files are in PDF format which requires the Adobe Acrobat Reader to view. If you don't have the Reader installed on your computer click the icon below to download. **Tips** to download an entire PDF file to your computer right-click on the link and choose "Save Target As" (for MS Internet Explorer. Other browsers may use different commands)

© 2008 Monterey County RMA Agency. All rights reserved. Questions or Comments? Planning Department, Watermaster@co.monterey.ca.us

7 of 1 9/9/2008 12:22 PM

89/1772888 16:17 831-373-8242 STAMP LAW PAGE 01/02
O-21b

LAW OFFICES OF
MICHAEL W. STAMP
478 Pacific Street, Suite One
Monterey, California 93940
Telephone
(831) 373-1214
September 17, 2008
Monterey County
Planning and Building
Inspection Administration
SEP 19 2008
RECEIVED

Facsimile
(831) 373-8242

Via Facsimile
Mike Novo, Planning Director
Carl Holm, Assistant Director of Planning
Planning Department
Resource Management Agency
County of Monterey
168 W. Alisal Street, 2d Floor
Salinas, CA 93901

Subject: GPU-5 DEIR - Unavailability of Draft EIR and Requested Documents

Dear Mr. Novo and Mr. Holm:

We have two issues regarding public access to County GPU-5 DEIR documents.

County Has Failed to Provide the Requested Draft EIR

A week ago, on September 10, 2008, our Office mailed the County a letter requesting the Draft EIR on CD and enclosing a check for \$6, the stated fee. In our experience, mail takes one day to travel between Monterey and Salinas. As of this afternoon, seven days later, we have not received the Draft EIR we requested.

The Draft EIR available online is a poor substitute because, at over 1000 pages, the document is difficult to work with, takes a long time to download, and is lost when the Internet connection fails.

Documents Relied Upon by DEIR Are Not Available to the Public

On the morning of September 16, my law clerk Jennifer Holda contacted the County to find out whether several specific documents cited in Section 11 of the DEIR were available to the public at the Planning Department front counter. Our office wanted to make sure the records were available before driving to Salinas to see them.

Ms. Holda spoke to Crystal in the call center, and provided the County with this list of the documents we wished to review.

1. California Water Plan Update 2005
2. Monterey District Urban Water Management Plan
3. Revised Draft Report, Municipal Services Review for the North County Area of Monterey County

2008 15:17 831-373-8242 STAMP LAW PAGE 02/02
O-21b

September 17, 2008
Mike Novo, Planning Director
Carl Holm, Assistant Director of Planning
Page 3

4. Monterey County Water Resource Agency, 2001a (as described in the DEIR)

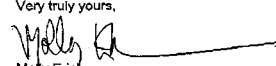
Crystal checked with the Planning Department front counter. The front counter staff did not know what documents were available. Crystal also stated she did not know what was available at the front counter and she would personally check for the four documents requested. After the County placed our office on hold for twelve minutes, the phone line was disconnected. Ms. Holda again called the County and asked to speak to Crystal. When Crystal answered, she provided the name of an available document: the North County Area Plan for Monterey County. That document was not one of the ones requested.

Crystal then stated she would ask Lisa Harris about the documents and again placed the call on hold. After five minutes, Crystal returned and asked for Ms. Holda's name and telephone number. Crystal stated that Lisa Harris would take the list of documents and report to Carl Holm and the County would call back.

As of 4:00 p.m. today, we have not received a response from anyone at the County. We and our clients need to investigate and research the Draft EIR's claims, and in order to do so, we need access to the documents upon which the Draft EIR relies. When will the records (listed in Section 11 of the Draft EIR) be available to the public?

Under CEQA, the public review period for the Draft EIR cannot start until the documents referenced in the EIR are actually available for public review. (See CEQA Guidelines, §§ 15087, 15105.) The amended Notice of Availability dated September 11, 2008 that is currently on the County website states that the review period began September 13, 2008, and runs to October 28, 2008 (45 days). However, the documents referenced in the Draft EIR were not available on September 13 for public review, and are not available today, September 17.

The County should make the documents listed in the Draft EIR Section 11 available, then revise the notice of availability accordingly. Under CEQA, the revised notice of availability should disclose the address where all documents referenced in the EIR will be available for public review during the review period. (CEQA Guidelines, § 15087(c)(5).) Those documents should be available to the public no later than the start of the review period.

Very truly yours,

Molly Erickson

cc: Dave Potter, Supervisor, District Five

O-21c

LAW OFFICES OF
MICHAEL W. STAMP
479 Pacific Street, Suite One
Monterey, California 93940

Facsimile
(831) 373-0242

Telephone
(831) 373-1214

September 26, 2008

Via Facsimile
Mike Novo, Planning Director
Carl Holm, Assistant Director of Planning
Planning Department
Resource Management Agency
County of Monterey
168 W. Alisal Street, 2d Floor
Salinas, CA 93901

Subject: Unavailability of Section 11 Documents of the Draft EIR

Dear Mr. Novo and Mr. Holm:

We received the County's letter dated September 17, 2008. Thank you for the copies of the CDs for the General Plan and the Draft EIR. Please note that our request for the CD of the General Plan Draft EIR was sent to Mr. Holm on September 10. This means the County took more than a week to provide any response to our request.

Our office contacted the County on September 16 to find out if four specific documents cited in Section 11 of the Draft EIR were available for review at the Planning Department front counter. We were told that the County would call back. On September 18, we received an email response from Mr. Novo. His response made no reference to our inquiry regarding the availability of the requested documents at the front counter of the Planning Department. His email provided URLs for three of the documents requested and stated the fourth document was a three page excerpt which could be faxed to our office. We requested it be faxed to our office the same day.

On September 19, we received a fax from the County. The faxed document contains (1) a cover page, (2) an inside cover page, and (3) page 23 of the document we requested. We were not provided any previous or subsequent pages. It is difficult to put into context the information on page 23 without additional pages. Is this the entire excerpt referenced by the County in Section 11 of the Draft EIR?

The URLs provided in Mr. Novo's email were also troublesome. One of them responds "Address Not Found". The other three URLs contain large files that are time consuming to download and difficult to navigate. It is challenging to find the information cited by the County in Section 11.

When trying to access the Section 11 documents from the County website, the URLs often send the reader to a homepage for the authoring organization, not the document listed by the County. From the homepage, it is difficult to locate the cited

O-21c

September 26, 2008
Mike Novo, Planning Director
Carl Holm, Assistant Director of Planning
Page 2

document. Some documents do not appear to be available to the public on the website of the organization.

The County provides an "Accessed" date for the cited Section 11 documents. Some of the "accessed" dates listed by the County are from years ago. Our office had difficulty locating the referenced document or report for many of the documents with "accessed" dates many years ago. Can these documents currently be accessed by the public? Does the "Accessed" date serve as a disclaimer that these documents may no longer be available at the web address shown?

The online links are problematic. Under CEQA, the County should provide the documents cited in Section 11 of the Draft EIR at the front counter of the Planning Department. Although we have requested notification from the County when the documents are available, we have received no such notification to date.

Under CEQA, the 45-day public comment period starts when all the required documents are name available. Please advise us:

1. Whether the County is willing to recognize that the 45-day period for public comment has not yet started to run;
2. The date by which you will provide the required documents.

Very truly yours,



cc: Dave Potter, Supervisor, District Five
Charles McKee, County Counsel

O-21d

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

Telephone
(831) 373-1214

October 17, 2008

Fernando Armenta, Chair
and Members of the Board of Supervisors
County of Monterey
168 W. Alisal Street, 1st Floor
Salinas, CA 93901

Subject: Draft Environmental Impact Report for GPU-5
Reference Documents Not Available

Dear Chair Armenta and Members of the Board of Supervisors:

This office represents The Open Monterey Project. I, along with members of our office staff, representatives of our client, and other representatives of community and resource protection groups, have been diligently trying to review and research the Draft Environmental Impact Report (EIR) for GPU-5. A critical part of that effort is getting access to the documents listed as references in Section 11 of the Draft EIR.

CEQA requires all documents referenced in the EIR to be available for public review during the agency's normal working hours. (CEQA Guidelines, § 15087, subd. (c)(5) [Public Review of Draft EIR].) The County has failed to comply with this CEQA requirement. As described in this letter, many of the documents referenced in the Draft EIR are not available in some cases, and not usable or not complete in others. The County has not provided the documents required by law. The effect of this is to delay the public the rights afforded by CEQA, which (1) is a violation of law, and (2) denies the public the opportunity to review and evaluate the analysis in the Draft EIR.

The total number of reference documents listed in the Draft EIR, Section 11, is approximately 328. The Section 11 list is attached as Exhibit 3 to this letter. We have attempted many times to research the reference documents online and at the County planning department. Numerous critical reference documents are not usable. They are not comprehensible due to missing pages or for other reasons, do not provide usable information, or fail as informational documents in the way they are presented. Our most recent attempt to review the paper documents at the Planning Department was yesterday, October 16.

The problems we have encountered with the County-provided reference documents fall into two major categories, plus many smaller problems that appear with lesser frequency, but which make the references equally incomprehensible or inaccessible. The two major problems are with (1) the County Draft EIR website's electronic links to the references and (2) the paper documents available at the County Planning Department.

O-21d

Fernando Armenta, Chair
and Members of the Board of Supervisors
October 17, 2008
Page 2

1. The County Website Provides Links to Meaningless Records

According to the County, of the 328 Section 11 reference documents listed on the County's website for the Draft EIR, approximately 292 are available only as links from the website. Many of the links provided by the County are not to the reference documents. The problems include: links to pages that no longer exist; links to homepages of public agencies and private entities, but no link to the document; links to search pages that do not allow for a search, and, even if the page was searchable, for which the public does not know the EIR preparer's search criteria; and other problems that make the documents largely incomprehensible as reference documents.

Attached as Exhibit 1 is a list of some of the problems we have been able to identify to date with the reference documents provided electronically on the County website. This list is correct as of October 16. This list is not exhaustive. We are discovering additional new problems with the records on an ongoing basis.

2. The Paper Documents at the County Planning Department Are Incomplete

According to the County, of the 328 Section 11 reference documents listed on the County's website, approximately 36 are available in hard copy at the Planning Department. On October 16, we reviewed every paper document the County had available at the Planning Department as its section 11 references. There were problems with many of the documents available at the County. The problems include: documents missing every other page; documents that are not what the Section 11 list claimed they were; documents that were excerpts, when the EIR Section 11 list references the complete document, and other problems that made the documents largely incomprehensible as reference documents.

Attached as Exhibit 2 is a list of some of the problems we have been able to identify to date with the paper reference documents made available at the County Planning Department. This list is correct as of October 16, 2008. As with the list attached as Exhibit 1, this list is not exhaustive, and we are discovering additional new problems with the records on an ongoing basis.

Other Serious Problems

We have noted numerous other problems to date. For example, when we requested a copy of the reference # 130, which the Section 11 list states is the entire Final EIR for the Rancho Roberto Subdivision, we received from the County less than 20 pages of the Draft EIR with some illegible handwritten changes on a couple of the pages. On October 16, 2008, we confirmed that the pages the County provided are all it has available as #130. As another example, some reference documents appear to be

O-21d

Fernando Armenta, Chair
and Members of the Board of Supervisors
October 17, 2008
Page 3

it has available as #130. As another example, some reference documents appear to be duplicates of others (e.g., references 3 and 13 appear to be identical).

The list of Section 11 documents was updated in October 2008 on the County website only. The paper versions of the September 2008 Draft EIR contains the outdated list. Individuals and groups who are reviewing the Draft EIR who purchased a hard copy did not receive any notification from the County about an updated list of Section 11 documents.

Late on October 3, the County wrote a letter stating that the Section 11 records were available on October 4, 2008. The November 18 cutoff date for comments is based upon the October 4 date. On October 4, 2008, I attempted to gain access to the reference documents that are available only in paper at the County offices. At approximately 11:05 a.m., I called the County Planning Department, and the recorded voice message stated that the office was closed for the weekend and that the office was open Monday through Friday.

The County website still lists October 28 as the last day for comments. Any member of the public reviewing the website would not be informed that the deadline has been moved to November 18. This misleading date is still on the website as of today (see Exhibit 4 to this letter).

Request

Many of the reference documents are not available because the versions presented by the County are not meaningful. The County's failure to make fundamental documents available during the public review of the Draft EIR is a very serious issue that go to the heart of public accountability and informed decisionmaking. The public is already very apprehensive about the general plan update process, given the County resources spent on the process, years of controversial meetings, five plan versions, and strongly contested ballot measures, among other issues.

All reference documents should be made available, and complete and accurate notification of the location of the actual documents must be provided as required by CEQA. Until the documents are made available in the manner required by CEQA, the 45-day public review period should not begin to run. The process to date does not comply with CEQA's mandates.

Very truly yours,



Molly Erickson

O-21d

Fernando Armenta, Chair
and Members of the Board of Supervisors
October 17, 2008
Page 4

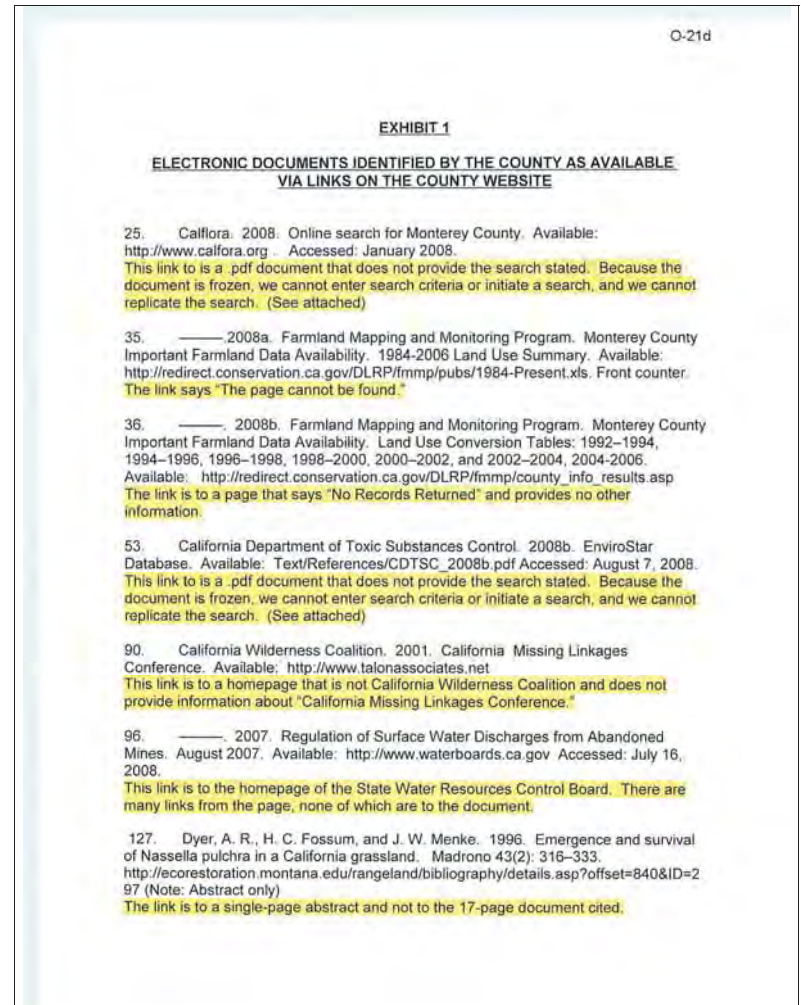
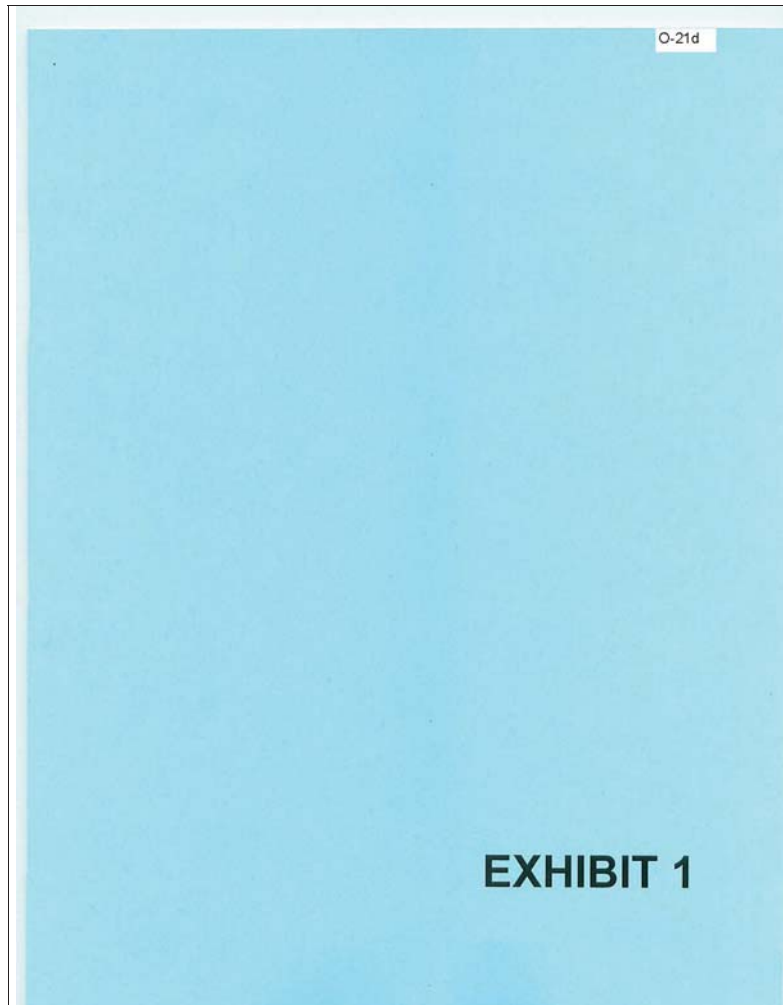
Exhibits:

1. List of reference documents asserted by the County to be available electronically on County website, with problems highlighted
2. List of reference documents asserted by the County to be available at County planning department, with problems highlighted
3. Section 11 Reference List, printed from County GPU-5 DEIR website
4. October 17, 2008 printout of County website page with incorrect comment deadline date

cc (via email):

Mike Novo, Planning Director
Charles McKee, County Counsel

Note: On October 16, 2008, the County refused my request to allow inspection of copying of the list of persons who purchased the Draft EIR from the County. I have observed that this list is available at the front counter. We request that the County immediately provide a copy of this emailed letter to each of the persons, agencies, and other entities on that secret list.



O-21d

128. Ed-Data. 2008. Website. Available:
<http://www.ed-data12.ca.us/Navigation/fsTwoPanel.asp?bottom=%2Fprofile%2Easp%3Flevel%3D05%26reportNumber%3D16>

This link is a .pdf document that provides search results for the County of Alameda. Because the document is frozen, we cannot enter search criteria or initiate a search, and we cannot replicate the search.

132. Environmental Protection Agency. 2006. CERCLIS Database. Available:
<http://cfpub.epa.gov/supercpad/cursites/srchsites.cfm> Accessed: May 4, 2006.
This link is to a searchable database with at least 15 variables to choose from in order to perform a search. There are no search results provided, the public does not know what search criteria the EIR preparers used, or how to replicate the search performed by the EIR preparer.

133. ———. 2008. RCRAInfo Database. Available:
http://www.epa.gov/enviro/html/rcris/rcris_query_java.html Accessed: March 17, 2008.
This link provides a query form with at least 10 variables to choose from in order to perform a search. There are no search results provided, the public does not know what search criteria the EIR preparers used, or how to replicate the search performed by the EIR preparer.

135. ———. 2008. Airport Data (5010) & Contact Information. Available:
http://www.faa.gov/airports_airtraffic/airports/airport_safety/airportdata_5010
Accessed: August 8, 2008.
This link is a .pdf document that does not provide the search stated. Because the document is frozen, we cannot enter search criteria or initiate a search, and we cannot replicate the search.

140. Geyer, B. 2008. Personal Communication with Bob Geyere, Assistant Director of Public Works and Utilities. City of Watsonville, Watsonville, CA. August 11, 2008—Telephone. "Personal communication" Telephone conversation dated August 11, 2008. No document.
No document is provided.

147. Jack Faucett Associates. 1995. Regional Weight Study Final Report. August. no link, contact information for Jack Faucett associates: <http://www.jfaucett.com/>
This link is to a homepage that does not provide the report stated.

174. Monterey County Sheriff's Office. 2008. Web Site. Available:
<http://www.co.monterey.ca.us/SHERIFF/patrol.htm>. Accessed March 17, 2008.
This link is to a homepage and does not appear to provide relevant information.

213. Resource Conservation District of Monterey County. 2006. Website. Available: <http://www.rcdmonterey.org>
This link is to a homepage. It is unclear how or why a public agency liked the Resource Conservation District is a reference document.

O-21d

234. United States Census Bureau. 1970, 1980, 1990, 2000 Census. Available:
Text/References/US_Census_1970_80-90_2000_2001.pdf
This link is to a .pdf document that does not provide the search stated. Because the document is frozen, we cannot enter search criteria or initiate a search, and we cannot replicate the search. (See attached)

235. ———. 2001. 2000 Census. Available: <http://census.gov>
This link is to a .pdf document that does not provide the 2000 census. Because the document is frozen, we cannot enter search criteria or initiate a search, and we cannot replicate the search.

239. ———. 2008a. Habitat Conservation Plans as of July 30, 2008. Available:
Text/References/USDpt_Habitat_Conservation_Plans_2008a.pdf Accessed: July 2008.
This link is a .pdf document that is current as of "September 18, 2008," but was accessed the month earlier in July 2008, according to the preparer.

IN ADDITIONAL REFERENCES:

California Climate Change Center. 2006. Scenarios of Climate change in California: an Overview. CEC-500-2005-186-SF, February. Available:
<http://www.energy.ca.gov/2005publications/CEC-500-2005-186/CEC-500-2005-186-SF.PDF>.
The font of the text is not large enough to read clearly.

———. 2008b. Farmland Mapping and Monitoring Program. Monterey County Important Farmland Data Availability. Land Use Conversion Tables: 1992–1994, 1994–1996, 1996–1998, 1998–2000, 2000–2002, and 2002–2004, 2004–2006. Available: http://redirect.conservation.ca.gov/DLRP/fmmp/county_info_results.asp
This link provides the search results "No records returned" and provides no other information.

———. 2007a. Population Projections by Race/Ethnicity for California and its Counties 2000–2050.
This link is to a .pdf document that does not provide the search stated. Because the document is frozen, we cannot enter search criteria or initiate a search, and we cannot replicate the search.

———. 2008. California Integrated Waste Management Board. Countywide, Regionwide, and Statewide Jurisdiction Progress Report.
This link is to a .pdf document that does not provide the search stated. Because the document is frozen, we cannot enter search criteria or initiate a search, and we cannot replicate the search.

Central Coast Regional Water Control Board
———. 2007. Regulation of Surface Water Discharges from Abandoned Mines. August 2007. Available: <http://www.waterboards.ca.gov/centralvalley/>
This link is to a homepage and does not provide a link to the information stated.

O-21d

———. 2002. Traffic Noise Model.
This link says "The page cannot be found."

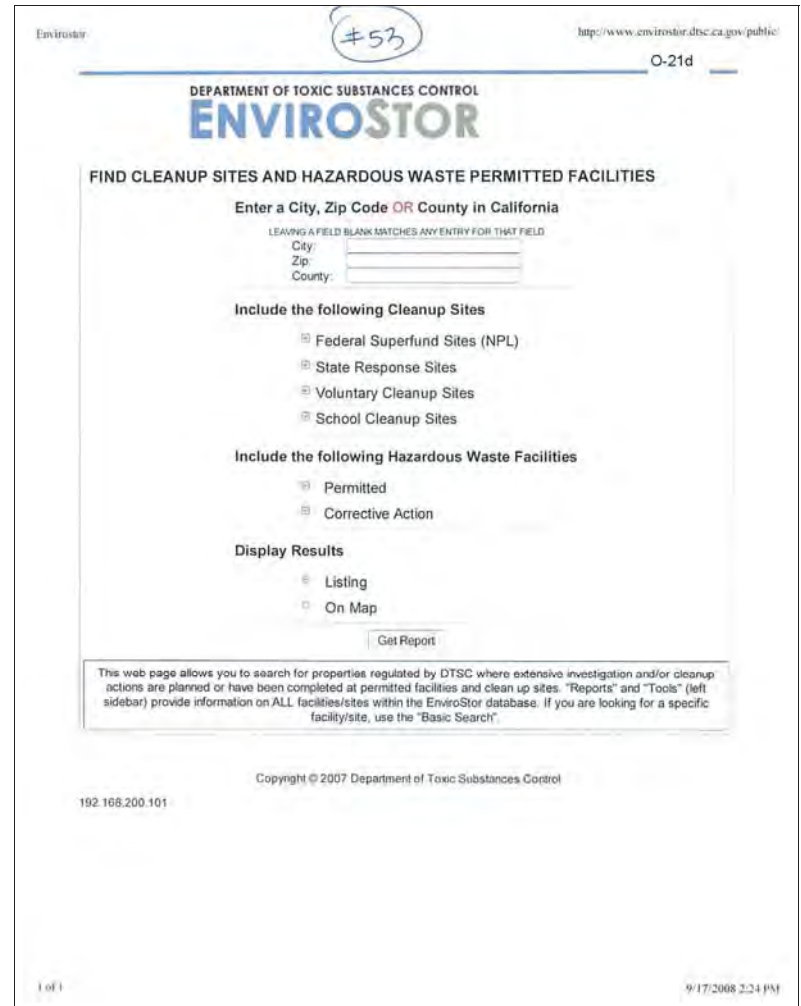
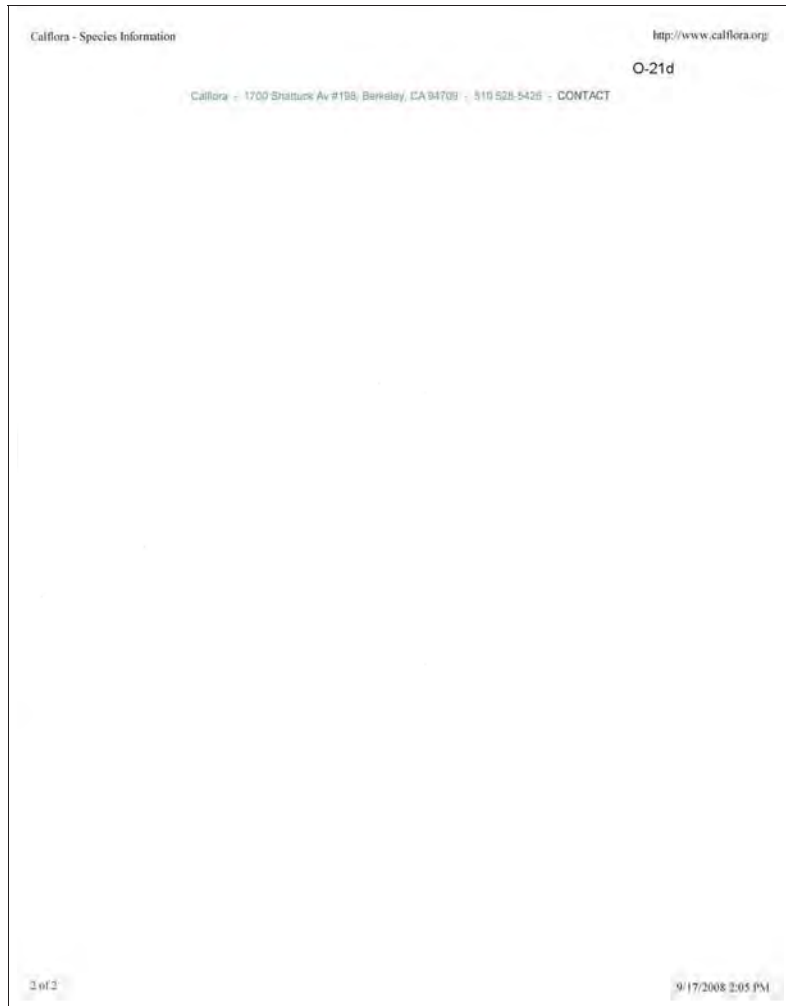
Kimley-Horn & Associates, Inc. 2008. Monterey County Greenhouse Gas Emissions.
Excel Spreadsheet.
This link is a .pdf document that does not provide the information stated. The
document is frozen, we cannot replicate the search and we are unable to view the Excel
Spreadsheet.

Monterey Peninsula Regional Park District. 2007. Parks & Preserves.
This link is to a .pdf document that does not provide the search stated. Because the
document is frozen, we cannot enter search criteria or initiate a search, and we cannot
replicate the search.

———. 2006. 2006 American Community Survey. Table C08301. Means of
Transportation to Work – Universe: Workers 16 Years and Over.
This link is to a .pdf document that does not provide the search stated. Because the
document is frozen, we cannot enter search criteria or initiate a search, and we cannot
replicate the search.

U.S. Fish and Wildlife Service. 2008. Habitat Conservation Plans as of July 30, 2008.
This link is to a .pdf document that does not provide the search stated. Because the
document is frozen, we cannot enter search criteria or initiate a search, and we cannot
replicate the search.

The screenshot shows the Calflora website interface. At the top right, it says "O-21d" and "http://www.calflora.org/". A handwritten "#25" is circled in the top right corner. The main heading is "Calflora - Species Information". On the left, there is a navigation menu with links: Home, About Calflora, Observation Library, Plant Name Library, What Grows Here?, Features, 2007 Summary, Map Viewer, NRCS California eVegGuide, Add Observations, and Contact. The main content area is titled "Species Information - search for species by their characteristics". It includes a search bar with "Search" and "Reset" buttons. Below the search bar are several filter sections: "plant name" with a text input field and examples; "county" with a dropdown menu showing "any", "Alameda", "Alpine", "Amador", and "Butte"; "elevation" with input fields for "plants found below" and "and above" in feet; "lifeform" with checkboxes for "All plants", "Ferns and Relatives", "Grass and Grass-like plants", "Annual Wildflowers", "Shrubs to small trees", and "Trees"; "native / non-native" with checkboxes for "All plants", "Plants NATIVE to California", "Plants not native to California", "Cal-IPC Listed Invasive Plants", "rare / non-rare", "All plants", "Rare or Special status plants", and "Non-rare status plants"; "plant community" with a dropdown menu showing "any", "Coastal Strand", "Coastal Salt Marsh", and "Freshwater Wetlands", and a checkbox for "Affinity to serpentine soil"; and "format" with checkboxes for "Do not display photos" and "Return only species names in plain text.", and a dropdown for "Order the results by" set to "taxon". At the bottom left, it says "1 of 2" and at the bottom right, it says "9/17/2008 2:05 PM".



Census Bureau Home Page http://www.census.gov/

#234

O-21d

US Census Bureau Skip this top of page navigation
 FAQs Subjects A to Z Help
 SEARCH:

Skip this left side navigation

Skip this center section

Skip this right side navigation

2010 Census • News
 American Community Survey
 • Census 2000

Estimates • Projections •
 Housing • Income |
 State Median Income •
 Poverty • Health Insurance •
 International • Genealogy •
 More

Population Finder

city/ town, county, or zip

 or state
 Select a state

Find An Area Profile with QuickFacts

For the following combo box, to make a selection, press enter then alt plus down arrow and use the up and down arrows. Select a state to begin
 Select a state

Latest Economic Indicators

- Housing Starts Building Permits
- Manufacturing and Trade Inventories and Sales

People & Households

Business & Industry

Geography

Newsroom

Special Topics

Income, Poverty & Health Insurance Coverage

Census Bureau Data and Emergency Preparedness •
 Census Calendar • Training •
 For Teachers & Students •
 Statistical Abstract •
 FedStats • USA.gov

1 of 2 9/18/2008 9:24 AM

Census Bureau Home Page http://www.census.gov/

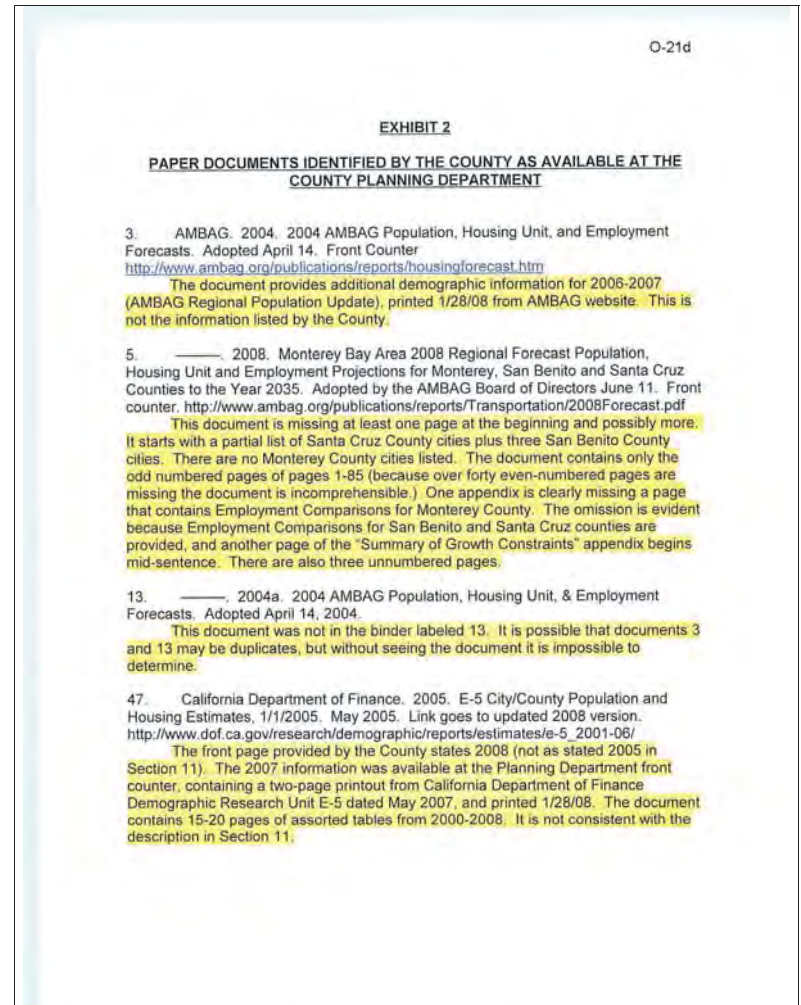
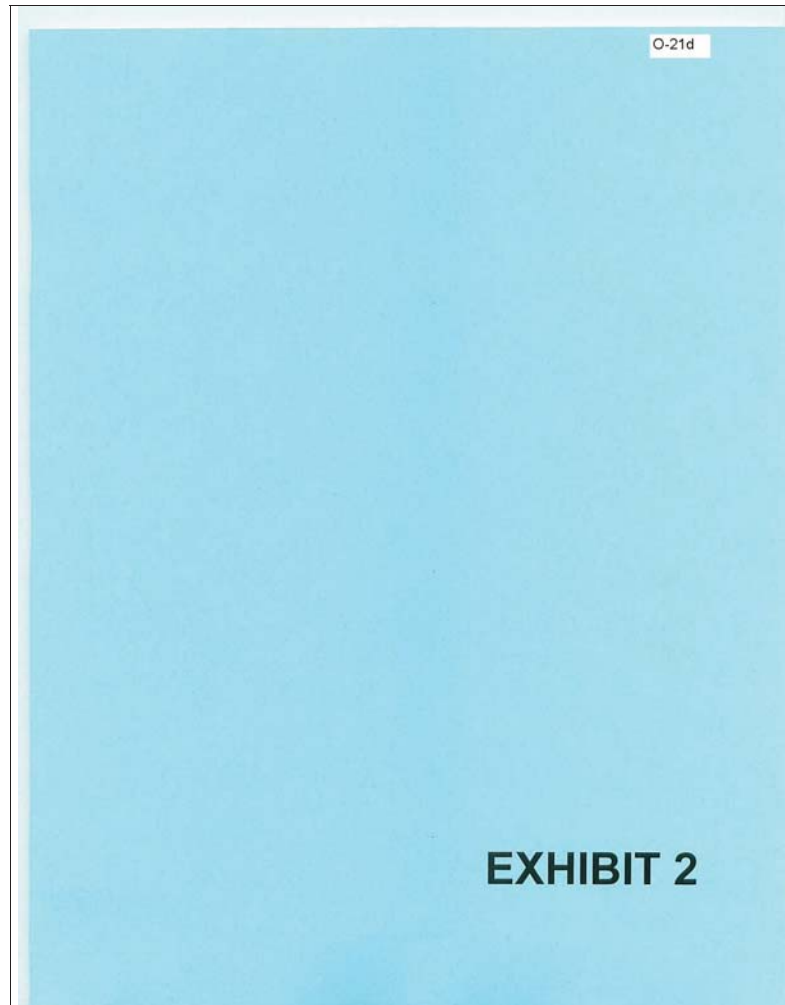
O-21d

Economic Indicators

For the following combo box, to make a selection, press enter then alt plus down arrow and use the up and down arrows. Select an indicator
 Select an indicator

[US Census Bureau, Helping You Make Informed Decisions](#)
[Accessibility Information](#) [Quality](#) [FOIA](#) [Data Protection & Privacy Policy](#) [U.S. Dept of Commerce](#)

2 of 2 9/18/2008 9:24 AM



O-21d

51. California Department of Food and Agriculture. California Agricultural Resource Directory 2007. Sacramento, CA. Front counter.
<http://www.cdfa.ca.gov/Statistics.html>

The information in the County binder appears to be excerpts of a larger document. It contains the cover page, inside cover, Table of Contents, and pages 4, 19, 32, 36, and 39.

67. ———. 2004g. Carmel Valley Groundwater Basin. Available: Text/References/Carmel_Valley_Groundwater_Basin_2004g.pdf Accessed: August 13, 2008. Last Updated: February 27, 2004.

This document was listed as number 69 in the binder provided by the County.

70. ———. 2006. Progress on Incorporating Climate Change into Management of California's Water Resources. Technical Memorandum Report. Sacramento, California. July 2006. Front counter
<http://baydeltaoffice.water.ca.gov/climatechange/DWRClimatChangeJuly06.pdf>

The binder provided by the County contained a cover page, preparer page, and pages 2-14 to 2-50. It is not stated whether there are more pages or if this is the only excerpt relied upon by the County.

124. Cypress Environmental and Land Use Planning and Inland Engineers, Inc. 2006. Revised Draft Report, Municipal Services Review for the North County Area of Monterey County. Prepared for LAFCO of Monterey County. October 2005 (February 2006 revisions of Pajaro/Sunny Mesa Community Services District and Pajaro Valley Water Management Agency chapters).

The paper document is excerpts: the cover page, inside cover page, and page 23 of the document. The paper document says it is the "Final Report" and is inconsistent with the information on the County website which refers to a "Draft Report." The entire document was not available at the County. These are the same pages we received by fax from the County in response to our request for the document cited in Section 11. (See attached)

130. EMC Planning Group. 2005. Rancho Roberto Subdivision Final Environmental Impact Report. Prepared for the Monterey County Planning and Building Inspection Department. Monterey, California. January 3, 2005. Front Counter.
http://www.co.monterey.ca.us/planning/docs/eirs/roberto/RanchoRoberto_FEIR.pdf

The paper document is a cover page that says "Draft" and only three pages of the draft document.

157. MBUAPCD. 2008b. 2008 Air Quality Management Plan. Monterey, California. June 2008. <http://www.mbuapcd.org/index.cfm/Cat/3.htm> Front Counter.

Only pages 4-1- 4-20, and "NCCAB EIC Level Summer Seasonal Inventory Detail for VOCs" were provide by the County. The entire document was not available at the County.

O-21d

199. Pajaro Valley Water Management Agency. 1993a. Basin Management Plan. <http://www.epa.gov/EPA-IMPACT/2001/August/Day-03/19440.htm> Front counter.

The County provides pages 4-1 to 4-48 and 7-1 to 7-15 which appear to be excerpts from the document listed. The County does not state whether it relied upon the entire document or the selected pages.

200. ———. 1993b. Final Program Environmental Impact Report on the Pajaro Valley Water Basin Management Plan. Certified December 1993.
http://www.dpla2.water.ca.gov/publications/groundwater/bulletin118/basins/pdfs_desc/3-2.pdf Front Counter.

The County provided only pages ES-1 to ES-17 of the Executive Summary. This is not the whole document as listed in Section 11.

202. ———. 2001. Pajaro Valley Water Management Agency Revised Basin Management Plan EIR SCH# 2000062030. Available:
http://www.pvwma.dst.ca.us/basin_management_plan/assests/bmp_eir/00-cover.pdf
Accessed: August 13, 2008. October. Front counter.

The County provided the Draft EIR from October 2001 cover page and pages 2-1 to 2-42.

242. West Yost Associates. 2005. Technical Memo No. 3. Prepared for the Napa County 2050 Napa Valley Water Resources Study as part of the Napa County General Plan Update. October 19, 2005. Front counter.
<http://www.napawatersheds.org/docs.php?oid=13166&ogid=10810>

This document is missing pages 12, 13, and 14.

O-21d
124

FINAL
MUNICIPAL SERVICES REVIEW
FOR THE
NORTH COUNTY AREA OF
MONTEREY COUNTY

LAFCO OF MONTEREY COUNTY

LAFCO OF MONTEREY COUNTY
LOCAL AGENCY FORMATION COMMISSION
132 W. Gabilan Street, Suite 102
Salinas, CA 93902

FEBRUARY 2006

O-21d

FINAL
MUNICIPAL SERVICES REVIEW
FOR THE
NORTH COUNTY AREA OF MONTEREY COUNTY

Prepared for:

LAFCO OF MONTEREY COUNTY
LOCAL AGENCY FORMATION COMMISSION
132 W. Gabilan Street, Suite 102
Salinas, CA 93902

Prepared by:

CYPRESS ENVIRONMENTAL AND LAND USE PLANNING
P.O. Box 1844
Aptos, CA 95001

in consultation with
IFLAND ENGINEERS, INC.

FEBRUARY 2006

O-21d

**Table 3
New Domestic Water System Facilities Planned By The Pajaro/Sunny Mesa
Community Services District**

Type of New Facility	Production Rate, Capacity or Size of Facility
New well	650 ft. deep; Expected production rate of 1,000-1,500 gpm
New storage tank	1,000,000 gallons
New storage building	3,200 sq. ft.
New water mains	9,000 lineal feet

Construction of the new water mains facilities were previously expected to be funded by a grant from the U.S. Department of Agriculture (USDA) and DHS. A grant from the USDA has been expected to finance the installation of new pipelines to serve the Hudson Landing and Vega Road areas. DHS approved the coastal area project for funding in 2002, but more recent State budgetary problems resulted in a loss of the DHS grant and financing of this part of the new pipeline system will have to be obtained from another source. District bonds or Certificates of Participation are being considered.

Facilities in the District have been damaged by earthquake and flooding in recent years. The Loma Prieta earthquake damaged the Sunny Mesa storage tank in 1989. Flooding of the Pajaro River in both 1995 and 1998 damaged wells and pumps by filling them with sediment. These facilities have all been repaired. In addition, 15,000,000 gallons of District water was used to remove sediment in Pajaro streets and yards after the 1998 flood. Such environmental disasters substantially increase maintenance costs.


The District also operates five water systems previously owned and operated by Alisal Water Corporation (ALCO). These systems are the NORMCO, Moss Landing, Blackie Road, Langley-Valle-Pacífico and Vierra Estates water systems. The U. S. District Court has approved purchase of these systems by the District. Title is anticipated to transfer in January 2006.

The District is currently investigating the possibility of developing a regional desalination plant in Moss Landing to address groundwater nitrate contamination and seawater intrusion problems. A 98 year lease for a 20 acre site has been secured. The lease includes existing sea water intake and outfall pipes. The District has also entered into development agreement with Poseidon Resources Corporation to pursue permits and other approvals for the project. The District is currently seeking other agencies interested in partnering in this project which is intended to supplement water needs beyond those needed by Pajaro/Sunny Mesa.

O-21d

EXHIBIT 3

GPU 2007 http://www.co.monterey.ca.us/planning/gpu/GPU_2007/gpu_2007.htm
O-21d



Home | Department Information | Planning Information | Public Information | Documents & Resources

2007 General Plan
 (Page is currently being updated)

Search

Project Name:	2007 General Plan
File number (s):	PLN070525
Location:	Monterey County/Non-Coastal (Vicinity Map)
Assessor's Parcel Number (s):	County-wide/Non-Coastal
Planning Area:	Cachagua, Carmel Valley, Central Salinas Valley, Fort Ord, Greater Salinas, Greater Monterey Peninsula, North County (Non-Coastal), South County and Toro
Planner:	Carl Holm (831) 755-5103
Current Status:	DEIR Public Comment
Environmental Status:	DEIR (The Public Review period is from Saturday, September 13, 2008 thru Tuesday, October 28, 2008. Comments will be received until 5:00 p.m. Tuesday, October 28, 2008.)
Project Description:	Comprehensive update of the 1982 General Plan, not including Coastal Areas and the 2003 Housing Element.
Key Dates:	November 12, 2008 at 1:30 p.m. - Draft EIR - Planning Commission Workshop December 3, 2008 at 9:00 a.m. - Planning Commission Hearing
Reports/Documents:	<ul style="list-style-type: none"> 2007 General Plan Draft EIR (September 2008) Draft 2007 Monterey County General Plan (November 5, 2007) General Plan Errata/Addendum (September 3, 2008) Notice of Availability DEIR (September 2008) Notice of Completion DEIR (September 2008) Summary of Mitigation Measure (Planning Commission September 10, 2008) Summary of Changes from 2006 GP to 2007 GP (Planning Commission September 10, 2008) Planning Commission Recommendations for changes to 2006 GP (September 12, 2007)
Related Links:	(These links are provided for information only. The County of Monterey does not endorse any of the information found on these sites)

1 of 2 10/17/2008 12:58 PM

O-21e

**LAW OFFICES OF
MICHAEL W. STAMP**

Facsimile: (831) 373-0242
 Telephone: (831) 373-1214
 479 Pacific Street, Suite 1
 Monterey, California 93940

October 27, 2008

The Honorable Fernando Armenta, Chair,
 and Members of the Board of Supervisors
 County of Monterey
 168 W. Alisal Street, 1st Floor
 Salinas, CA 93901

Subject: Draft Environmental Impact Report for GPU-5
 Reference Documents Not Available

Dear Chair Armenta and Members of the Board of Supervisors:

We have received Assistant Planning Director Holm's letter dated October 23, 2008 in response to our earlier letter on the GPU-5 EIR. The response states policy for the County: the County has decided to deny access to public information and limit public participation in the most important County land use decision in more than 20 years.

This County policy is contrary to CEQA. It carries serious consequences.

Mr. Holm insists on dismissing the dozens of County errors that have denied access to EIR reference materials and which have impermissibly curtailed public comments on the EIR. The errors include reliance upon documents that do not exist, websites that do not work, inaccurate citations, the omission of half of the pages of certain documents, clerical errors, and instances where the public is advised to search on its own and guess what the County meant to refer to. Some of the reference materials that should have been provided by the County are materially different from those actually provided by the County planning department. Despite all this, Mr. Holm's position for the County is that the County will only comply with CEQA "as a general matter," and is not required to actually comply with the law.

The Open Monterey Project believes that Mr. Holm's letter states a significant change in policy for the Board of Supervisors. If the Board's new policy is that the County need not follow the law, need not produce accurate documents, and does not want the public to participate, we respectfully ask that you say so in a public session. If Mr. Holm and the planning staff are making policy for the Board, the Board should let the public know about it.

We address here some of the issues raised by Mr. Holm. Sadly, many of his factual assertions are inaccurate. One example is his claim that the Draft EIR and its appendices have been publicly available "without complaint since September 13."

O-21e

Fernando Armenta, Chair
and Members of the Board of Supervisors
October 27, 2008
Page 2

- Mr. Holm ignores the undeniable facts about the public's numerous unsuccessful attempts after September 13 to view the EIR reference documents at the County planning department. He ignores the County's repeated confusion in response to each attempt. The County eventually made a partial group of the reference documents available to the public at the County planning department for the first time on October 6. I reviewed these records (to the extent that they existed) at the County planning department on October 7, and again, with a law clerk, on October 16. My October 17 letter pointed out the deficiencies with those records as of that date. The complete records were not available on October 16 (as confirmed by Mr. Holm's own letter), or on September 13. Why does that matter? Because CEQA requires strict compliance with the 45-day review period, which cannot begin to run until the actual documents are actually available. CEQA does not say that the County may only comply "as a general matter."
- Mr. Holm also ignores the many letters the County has received in October from individuals and community groups complaining about the lack of access to reference materials. According to public records, in addition to the October 17 letter from The Open Monterey Project, such letters of complaint have been received from the Sierra Club, the Carmel Valley Association, the Prunedale Neighbors Group and the Prunedale Preservation Alliance, Friends and Neighbors of Elkhorn Slough, Jane Haines, and others.

Mr. Holm's overall response appears to be that the public should go on a scavenger hunt, using the little scraps of inaccurate, inconsistent and inadequate pieces of information provided by the Section 11 list. Using the method he advocates, the public would never know whether reference materials they have found at the end of their hunt are in fact the same materials relied upon by the EIR preparer. It is as if the County told its residents to go to the library and guess which book the EIR consultant was relying upon. This is not compliance with CEQA.

One example of how Mr. Holm's approach is inconsistent with CEQA and ignores the real world is the October 21, 2008 letter from retired land use lawyer Jane Haines. Ms. Haines is a sophisticated member of the public with expertise in research and in farmland issues. Ms. Haines has pointed out that she spent several hours trying to find the correct citation to EIR reference #35. In contrast with this real-life experience, Mr. Holm dismissively stated that the problem with the County's citation is that the reference "contained a minor typo." (Holm October 23, 2008 letter, p. 2.) His further response told the public to go to the state department of conservation's home page and "follow the self-explanatory links." (*ibid.*) That suggestion is contradicted by

O-21e

Fernando Armenta, Chair
and Members of the Board of Supervisors
October 27, 2008
Page 3

Ms. Haines' real-life experience of several hours spent trying to find the correct data. When a website address contains significant errors, as it did here, it is not reasonable to require the public to guess at the correct address.

In many respects, the County's response makes little sense. An EIR is intended to be an informational document, and the list of reference documents should be an informational document. A reference document should be just that. It is not helpful for the County instead to provide an entry-level screen (with blanks) that leads to a searchable database. It is equally not helpful for the County to state that "one must read the DEIR... to guide your search." (Holm letter, p. 1.) The reason the public turns to the reference materials is because in many cases the public finds the EIR discussion confusing, or the public believes the EIR analysis relies on questionable data, or the public cannot determine what analysis was done or the data on which the analysis was made to arrive at the DEIR statements. In each such circumstance, the EIR provides little or no "guide" to a "search." (For example, Ms. Haines pointed out that the information she eventually found after hours of research was not in the Draft EIR. Where information is not in the EIR, the EIR does not provide a "guide" to find the information.)

Mr. Holm also goes too far when he tells the public to insert their own search criteria in a searchable database in order to replicate a search purportedly done by the EIR preparer. That shows a fundamental misunderstanding of what "public review" means. It is not an interactive game, where the public gets to hunt and poke around a website or a database with the goal of replicating the EIR preparer's unknown results, without ever knowing whether they actually succeeded.

Mr. Holm's suggestion that the County used frozen .pdf documents "to ensure that the reference would remain available in the event the material on the web subsequently changed" is nonsensical. If that was the County's intent, then why did the County not place the search results online in a frozen .pdf document? That approach would have made much more sense, and would have taken the public's guesswork out of it. The public should not have to hope that by luck – or by accident – it arrives at the same search and discovers the same report that the EIR preparers relied on.

Where the EIR provides a list of references, it is reasonable for the public to rely on the list. Here, the County chose to include the list of references and incorporate it as section 11 of the Draft EIR, an informational document. The public has been relying on the list as published in the Draft EIR and on the County-provided materials: the paper versions of the reference materials at the Planning Department; and the materials available as links on the County website.

O-21e

Fernando Armenta, Chair
and Members of the Board of Supervisors
October 27, 2008
Page 4

Nowhere does Mr. Holm state that the incorrect list of reference materials will be changed, fixed, updated, corrected, or deleted, based on our October 17, 2007 comments. Nowhere does he state when the County will make available the corrected list on the County website or when the corrected list will be mailed to the list of persons who purchased the Draft EIR for \$200 – a list the County insisted that people sign in order that the County might provide additional or corrected information to them. Mr. Holm's apparent refusal to update the list on the County website or to send the corrected list to those who purchased it should not be acceptable to the Board of Supervisors.

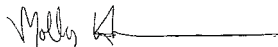
Today, October 27, we reviewed the DEIR Section 11 list on the County website. The list has not changed. It contains the same inaccurate links and incorrect records. On Saturday October 24 and again today, as the County instructed, we called Bill Hopkins for help. We got his voice mail message stating he would be out of the office until Monday, November 3.

Mr. Holm did not tell us when the corrected documents will be available at the County planning department and on the website. We want to see them. Please tell us as soon as they are available.

Mr. Holm did not respond to our request that the County extend the comment period for at least 45 days from the date that the reference materials are finally available. We would appreciate a response. If the County decision is not to extend the comment period for the full 45 days, we ask that you advise us and the public of that decision by October 31. The Open Monterey Project is prepared to protect the rights of the public and to enforce CEQA.

And if the Board does not accept the Planning Department's recent evasive and haphazard approach as the County's policy for complying with CEQA, please make sure to let us and the public know that.

Very truly yours,


Molly Erickson

cc: Mike Novo, Planning Director
Carl Holm, Assistant Director of Planning
Charles McKee, County Counsel

O-21f

LAW OFFICES OF
MICHAEL W. STAMP
Facsimile (831) 373-0242
479 Pacific Street, Suite 1
Monterey, California 93940
Telephone (831) 373-1214
October 28, 2008

Carl Holm, Assistant Director of Planning
Planning Department
Resource Management Agency
County of Monterey
168 W. Alisal Street, Second Floor
Salinas, CA 93901

Monterey County
Planning and Building
Inspection Administration
OCT 29 2008
RECEIVED

Subject: Draft EIR for County GPU-5; SCH Number 2007121001

Dear Mr. Holm:

Under CEQA, the County was required to provide the environmental impact report to the State for review. (Pub. Resources Code, § 21082.1, subd. (c)(4).) On September 5, 2008, the State Clearinghouse received the Draft EIR. The 45-day review period was to expire on October 28, 2008.

Some time after September 5, the County was informed that the Draft EIR it had distributed was missing an appendix. The County provided the appendix to some individuals and agencies, and re-started the public review period to run until November 18.

However, it appears from the State Clearinghouse CEQAnet database that the State did not receive the corrected version of the Draft EIR, and is operating under the assumption that comments on the old, incorrect EIR are due on October 28. (See attached Notice of Completion from the County website, showing a due date of October 20 [sic], and printouts from the State Clearinghouse CEQAnet database showing a due date of October 28.)

The State should have the complete Draft EIR, including all missing appendices, and should have at least 45 days to review the complete Draft EIR. The law is very clear: to comply with CEQA, the complete environmental document must be released for public review, and the review period cannot begin to run until the complete document is released. (*Ultramar, Inc. v. South Coast Air Quality Management Dist.* (1993) 17 Cal.App.4th 689.)

Additionally, the County's Notice of Completion shows that the Draft EIR was not sent to the State Water Resources Control Board Division of Water Rights. It is a serious omission not to send the Draft EIR to the Division of Water Rights, in light of (1) the serious overdraft issues on the Monterey Peninsula, North County, Pajaro Valley, and the Salinas Valley aquifer, (2) SWRCB Order 95-10, and (3) the Draft EIR's findings that GPU-5 will have significant unavoidable impacts on the County's water supplies.

O-21f

Carl Holm, Assistant Director of Planning
October 28, 2008
Page 2

Please respond to these comments at your earliest opportunity. Thank you.

Very truly yours,



Molly Erickson

Attachments as stated

cc: Mike Novo, Planning Director
Charles McKee, County Counsel
Leslie Girard, Assistant County Counsel
Clerk to the Board of Supervisors
Monterey Peninsula Water Management District
Pajaro Valley Water Management District

O-21f

Notice of Completion

See NOTE below

Mail to: State Clearinghouse, 1400 Tenth Street Sacramento, CA 95814 916/445-0813

SCH 2007121001

Project Title: 2007 Monterey County General Plan

Lead Agency: County of Monterey, Resource Management Agency
Street Address: 188 West Alisal Street, 2nd Floor
City: Salinas, CA Zip: 93901-2680

Contact Person: Carl Holm
Phone: (831) 755-5103
County: Monterey

Project Location

County: Monterey City/Nearest Community: Non-Coastal Unincorporated County
Cross Streets: _____ Zip Code: _____ Total Acres: _____
Assessor's Parcel No. _____ Latitude: 121.024,239 Longitude: 36.346971
Within 2 Miles: State Hwy #: multiple Waterways: multiple
Airports: multiple Railways: multiple Schools: multiple

Document Type

CEQA: NOP Supplement/Subsequent NEPA: NOI Joint Document
PROPOSED Early Cons EIR-Final EA Final Document
 Neg. Dec Other: Program EIR Draft EIS Other
 Draft EIR FONSI

Local Action Type

General Plan Update Specific Plan Rezone Annexation
 General Plan Amendment Master Plan Prezone Redevelopment
 General Plan Element Planned Unit Development Use Permit Coastal Permit
 Community Plan Site Plan Land Division (Subdivision, Parcel Map, Tract Map, etc.) Other: AWCP

Development Type

Residential: Units: _____ Acres _____ Water Facilities: Type: _____
 Office: Sq. ft. _____ Acres _____ Employees _____ Transportation/FC: Type, _____
 Commercial: Sq. ft. _____ Acres _____ Employees _____ Mining: Mineral _____
 Industrial: Sq. ft. _____ Acres _____ Employees _____ Power: Type Watts _____
 Educational _____ Waste Treatment: Type: _____
 Recreational _____ Hazardous Waste: Type _____ Other: _____

Project Issues Discussed in Document

Aesthetic/Visual Flood Plain/Flooding Schools/Universities Water Quality
 Agricultural Land Forest Land/Fire Hazard Septic Systems Water Supply/Groundwater
 Air Quality Geologic/Seismic Sewer Capacity Wetland/Riparian
 Archeological/Historical Minerals Soil Erosion/Compaction/Grading Wildlife
 Coastal Zone Noise Solid Waste Growth Inducing
 Drainage/Absorption Population/Housing Balance Toxic/Hazardous Land Use
 Economic/Jobs Public Services/Facilities Traffic/Circulation Cumulative Effects
 Fiscal Recreation/Parks Vegetation Other: _____

Present Land Use/Zoning/General Plan Use

Not applicable

Project Description:

The proposed project consists of a comprehensive update of the Monterey County General Plan (2007 General Plan). This update includes changes to land use designations and the goals and policies within the General Plan and Area Plans that guide future growth and land use activities. The 2007 General Plan includes an Agricultural Winery Corridor Plan (AWCP) that would facilitate the development of wine-related facilities on three corridors in the Salinas Valley and South County. Note that the planning boundaries of the 2007 General Plan or the AWCP do not include the Coastal Zone.

O-21f

Project Sent to the following State Agencies

Resources Agency	
<input checked="" type="checkbox"/> Boating & Waterways	
<input checked="" type="checkbox"/> Coastal Commission	
<input type="checkbox"/> Coastal Conservancy	
<input type="checkbox"/> Colorado River Board	
<input checked="" type="checkbox"/> Conservation	
<input checked="" type="checkbox"/> Fish & Game # 3	
<input checked="" type="checkbox"/> Forestry	
<input checked="" type="checkbox"/> Office of Historic Preservation	
<input checked="" type="checkbox"/> Parks & Recreation	
<input checked="" type="checkbox"/> Reclamation	
<input type="checkbox"/> S.F. Bay Conservation & Development Commission	
<input checked="" type="checkbox"/> Water Resources (DWR)	
Business, Transportation & Housing	
<input checked="" type="checkbox"/> Aeronautics	
<input checked="" type="checkbox"/> California Highway Patrol	
<input checked="" type="checkbox"/> CALTRANS District # 5	
<input type="checkbox"/> Department of Transportation Planning	
<input checked="" type="checkbox"/> Housing & Community Development	
<input checked="" type="checkbox"/> Food & Agriculture	
Health & Welfare	
<input checked="" type="checkbox"/> Health Services	
State & Consumer Services	
<input type="checkbox"/> General Services	
<input type="checkbox"/> OLA (Schools)	

Cal-EPA
<input checked="" type="checkbox"/> Air Resources Board
<input checked="" type="checkbox"/> APCD/AQMD
<input checked="" type="checkbox"/> California Waste Management Board
<input type="checkbox"/> SWRCB: Clean Water Grants
<input type="checkbox"/> SWRCB: Delta Unit
<input checked="" type="checkbox"/> SWRCB: Water Quality
<input type="checkbox"/> SWRCB: Water Rights
<input checked="" type="checkbox"/> Regional WQCB #3
Youth & Adult Corrections
<input checked="" type="checkbox"/> Corrections
Independent Commissions & Offices
<input type="checkbox"/> Energy Commission
<input checked="" type="checkbox"/> Native American Heritage Commission
<input type="checkbox"/> Public Utilities Commission
<input type="checkbox"/> Santa Monica Mountains Conservancy
<input checked="" type="checkbox"/> State Lands Commission
<input type="checkbox"/> Tahoe Regional Planning Agency
Other <input type="checkbox"/> Mines & Geology, <input type="checkbox"/> Conservation

Public Review Period (to be filled in by lead agency)

Starting Date: September 5, 2008 Ending Date: October 20, 2008

Signature: Carl Holm Date: September 3, 2008

<p>Lead Agency: Monterey County Consulting Firm: <u>Jones & Stokes</u> Address: <u>2600 "V" Street</u> City/State/Zip: <u>Sacramento, CA 95818</u> Contact: <u>Terry Rivesplate</u> Phone: <u>(916) 737-3000 x3004</u></p>	<p>For SCH Use Only:</p> Date Received at SCH _____ Date Review Starts _____ Date to Agencies _____ Date to SCH _____ Clearance Date _____ Notes: _____
--	---

②

CEQAnet Database Query http://www.ceqanet.ca.gov/Proj/DocList.asp?ProjectPK=586067

O-21f

Tuesday, October 28, 2008

California Home #01147000

2007 Monterey County General Plan

City	Cross Street	Document Type	Description	Date Received
Carrol-by-the-Sea		Draft EIR	Note: Supplement/Subsequent, Program EIR The General Plan serves as the blueprint for growth in unincorporated inland areas of Monterey County by designating land for various urban and non-urban uses including agricultural, commercial, industrial, residential, and public/quasi-public. GP 2007 carries over most of the policies and land use designations that composed GP 2005, with a number of key revisions. The following describes GP 2007, with items that represent a change from GP 2005 marked with an asterisk or listed under "Other GP 2007 Provisions."	9/5/2008
		Notice of Preparation	The General Plan serves as the blueprint for growth in unincorporated inland areas of Monterey County by designating land for various urban and non-urban uses including agricultural, commercial, industrial, residential, and public/quasi-public. GP 2007 carries over most of the policies and land use designations that composed GP 2005, with a number of key revisions. The following describes GP 2007, with items that represent a change from GP 2005 marked with an asterisk or listed under "Other GP 2007 Provisions."	12/3/2007

[CEQAnet HOME](#) | [NEW SEARCH](#)


1 of 1 10/28/2008 10:14 AM

③

CEQAnet - 2007 Monterey County General Plan http://www.ceqanet.ca.gov/DocDescription.asp?DocPK=624983

O-21f

Tuesday, October 28, 2008



California Home
Welcome to **California** HOLLYWOOD
OPR Home > CEQAnet Home > CEQAnet Query > Search Results > Document Description

2007 Monterey County General Plan

SCH Number: 2007121001
Type: EIR - Draft EIR
Project Description
Note: Supplement/Subsequent, Program EIR. The General Plan serves as the blueprint for growth in unincorporated inland areas of Monterey County by designating land for various urban and non-urban uses including agricultural, commercial, industrial, residential, and public/gas-public. GP 2007 carries over most of the policies and land use designations that comprise GP 2003, with a number of key revisions. The following describes GP 2007, with items that represent a change from GP 2006 marked with an asterisk or listed under "Other GP 2007 Provisions."
Project Lead Agency
Monterey County

Contact Information
Primary Contact:
Caitie Holt
Monterey County
(916) 755-5103
188 W. Alisal Street, 2nd Floor
Salinas, CA 95001-2680

Project Location
County: Monterey
City: Carmel-by-the-Sea
Region:
Cross Streets:
Parcel No:
Township:
Range:
Section:
Basis:
Other Location Info: Non-Coastal Unincorporated County

Proximity To
Highways: multiple
Airports: multiple
Railways: multiple
Waterways: multiple
Schools: multiple
Land Use: This is an update to the 1982 General Plan effective county-wide. Various zoning and land use designations

Development Type

Local Action
General Plan Update, Other Action

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

④

1 of 2 10/28/2008 10:14 AM

CEQAnet - 2007 Monterey County General Plan http://www.ceqanet.ca.gov/DocDescription.asp?DocPK=624983

O-21f

Tuesday, October 28, 2008

Reviewing Agencies (Agencies in **Bold Type** submitted comment letters to the State Clearinghouse)
Resources Agency, Department of Conservation, Department of Fish and Game, Region 4, Department of Forestry and Fire Protection, Department of Parks and Recreation, Office of Emergency Services, Caltrans, Division of Aeronautics, California Highway Patrol, Caltrans, District 5, Department of Housing and Community Development, Air Resources Board, Transportation Projects, Regional Water Quality Control Board, Region 9, **Native American Heritage Commission**, Public Utilities Commission

Date Received: 9/5/2008 **Start of Review:** 9/5/2008 **End of Review:** 10/28/2008

[CEQANET HOME](#) | [NEW SEARCH](#)

⑤

2 of 2 10/28/2008 10:14 AM

O-21g

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile (831) 373-0242 479 Pacific Street, Suite 1
Monterey, California 93940 Telephone (831) 373-1214

November 3, 2008

Via Email
Carl Holm, Assistant Director of Planning
Planning Department
Resource Management Agency
County of Monterey
168 W. Alisal Street, Second Floor
Salinas, CA 93901


Subject: Draft EIR for County GPU-5; SCH Number 2007121001

Dear Mr. Holm:

This Office represents The Open Monterey Project. On October 28, 2008, I sent you a letter regarding the County's apparent failure to provide the Draft EIR for GPU-5 to the State Water Resources Control Board. I have received no response to my letter.

Since then, I have confirmed with Steve Herrera that the Division of Water Rights of the State Water Resources Control Board did not receive a Draft EIR for the proposed County GPU-5. In light of the serious overdraft of this County's major water supplies, the State's many ongoing years of attention to this County's water situation, and the significant unavoidable adverse impacts on County water supplies that are identified in the Draft EIR, the County's omission is another fatal flaw in the process.

The County should give the State Water Resources Control Board the complete Draft EIR in hard copy. The County should also make the correct and complete EIR reference materials available to the State and to the public. Only then should the 45-day public review period begin.

Very truly yours,

Molly Erickson

cc: Mike Novo, Planning Director
Charles McKee, County Counsel
Leslie J. Girard, Assistant County Counsel
Board of Supervisors
Monterey Peninsula Water Management District
Pajaro Valley Water Management District
Steve Herrera, State Water Resources Control Board, Division of Water Rights

O-21h

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile (831) 373-0242 479 Pacific Street, Suite One
Monterey, California 93940 Telephone (831) 373-1214

November 13, 2008

Via Email
Mike Novo, Planning Director
Planning Department
Resource Management Agency
County of Monterey
168 W. Alisal Street, 2d Floor
Salinas, CA 93901

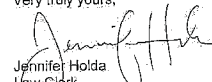
Subject: Request for List of Contacts for GPU-5 Draft EIR

Dear Mr. Novo:

Thank you for your response of November 12. You asked for clarification regarding my request made November 10. Your email states that you did not know what we were requesting.

The Draft EIR states "A list of the extensive contacts made during the consultation period is available upon request to the Monterey County Planning Department." Our Office requested a copy of this list. If you need further assistance, please see page 2-4 in section 2.2.1, titled "General Plan Adoption," of the Draft EIR.

Please provide our Office with a copy of the list at your earliest opportunity. The DEIR says it "is available upon request."

Very truly yours,

Jennifer Holda
Law Clerk

cc: Leslie J. Girard, County Counsel

12/23/2008 14:26 8313730242 STAMP LAW PAGE 01/03
O-211

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite One
Monterey, California 93940

Telephone
(831) 373-1214

December 23, 2008

Via Facsimile

Alana Knaster, Assistant Director
Resource Management Agency
County of Monterey
138 West Aisai Street, 2d Floor
Salinas, CA 93901

Subject: GPU-5 Draft Environmental Impact Report, Notice of Availability

Dear Ms. Knaster:

The Open Monterey Project objects the Notice of Availability and Draft EIR materials released by the County in December 2008. Here are the facts as we understand them from County records and from County staff:

1. In December 2008, the County released an undated Notice of Availability (NOA) that stated the County had made changes to the Draft Environmental Impact Report. The NOA described Change #4 as follows: "correction of typographical errors in three maps from the General Plan."
2. With the NOA, the County released five changed General Plan maps, not three as identified in the NOA.
3. The NOA did not inform the public of what changes were made to the General Plan maps.
4. In the new EIR materials released to the public with the NOA, the County did not change the Draft EIR maps that should correspond to the changed General Plan maps. The maps are labeled differently in the General Plan and in the Draft EIR, and the public would not know that they are supposed to be the same maps.
5. In the new EIR materials released to the public with the NOA, the County did not provide any information to the public as to how the changed General Plan maps correspond, if at all, with maps in the Draft EIR.
6. The County did not include in the NOA any notice regarding any changes to maps in the Draft EIR. The NOA did not inform the public that as a result of changes to the General Plan maps, there also should be changes made to the Draft EIR maps.

bcc: Lew Bowman

12/23/2008 14:26 8313730242 STAMP LAW PAGE 02/03
O-211

Alana Knaster
December 23, 2008
Page 2

7. Since our Office identified some of these concerns, the County has apparently made changes to some of the Draft EIR information on the County website, but has not communicated that information to the public who purchased the Draft EIR or the public who already reviewed the website after the December NOA was released. As a result of the County's changes, dates on the website are also incorrect. As one example, the Carmel Valley exhibit map states it was updated December 12, but the version currently on the website is different from, and has been materially changed from, the version available on the website on December 12. As another example, the general plan website (http://www.co.monterey.ca.us/planning/gpu/GPU_2007/gpu_2007.htm) has a link to "2007 General Plan Draft EIR (Last Updated December 5, 2008)" but when the public goes to that site (http://www.co.monterey.ca.us/planning/gpu/2007_GPU_DEIR_Sept_2008/2007_GPU_DEIR_September_2008.htm) there are records dated "December 12, 2007", some of which have been updated since December 12, but are not identified as such.
8. In December 2008, the County sent a CD of the Draft EIR to persons who had already purchased the Draft EIR. Our Office received one of these CDs. The CD was presumably meant to contain a current, updated document. However, the CD contains a Draft EIR in which the maps were not changed or updated. The exhibits on the CD distributed to the public are not the same as the changed exhibits now available on the County website (for example, the Exhibit 3.8 on the CD shows different land use boundaries and different labels from the Exhibit 3.8 on the County website). The public has not been informed of the discrepancies, or instructed not to rely on the CD distributed by the County in December.
9. In December 2007, the Board of Supervisors reviewed the 2007 General Plan and approved it as final for purposes of environmental review.
10. In September 2008, the County released a "General Plan Errata/Addendum (September 3, 2008)". That document is available at http://www.co.monterey.ca.us/planning/gpu/GPU_2007/gpu_2007.htm. Many of the changes are material. The document does not identify who authorized or approved the "errata/addendum" materials. I understand from Mr. Holm that staff prepared the materials. The Board did not review these changes to the General Plan.
11. In December 2008, the County made material changes to five General Plan maps, including changes to boundaries of actual and/or proposed land use designations in areas involving past and proposed controversial

12/23/2008 14:26 8313730242 STAMP LAW PAGE 03/03
O-21i

Alana Knaster
December 23, 2008
Page 3

land use projects. I understand from Mr. Holm that staff prepared the materials. The Board did not review these changes to the General Plan.

- 12. On December 19, I asked what version of the Draft EIR was provided to the State and to the public in December, including which maps and which enclosures. Today Mr. Holm referred me to you for the information about which maps and which enclosures. Mr. Holm stated that the Draft EIR was provided on a CD. If the County provided the CD to the State, it is logical to assume that the CD is the same as the one distributed to the public. As pointed out above, the Draft EIR on that CD is inaccurate, does not reflect recent changes, and analyzes a project that is materially different from the changed proposed project.

County's actions have made this process very confusing for the public. The public does not know which are current versions and which are outdated versions of the Draft EIR and General Plan. The CDs, hard copies and County website contain inconsistent versions of the Draft EIR and General Plan; the County has not disclosed changes it has made or who made the changes; records are not accurately labeled; identically titled documents are in fact different in their contents; the same versions of maps are labeled differently, and different versions of maps are labeled the same.

The Draft EIR public review period should not begin to run until the environmental documents are accurate, quantified, corrected, and distributed to the public who has already purchased the Draft EIR, and available to the public at large. As we stated last week, we are getting multiple calls from the public who are confused about the "revised" DEIR and the changed General Plan. These include sophisticated members of the public who carefully reviewed the first Draft EIR, and are unclear on what has changed about the current Draft EIR – and the General Plan – and how those changes happened. As we also stated, the County has not met the procedural mandates of CEQA, resulting in informational gaps that are prejudicial. We would prefer the County resolve the issues now, because the problems are precluding informed participation by the public in the CEQA process. If the County chooses to proceed with the defective materials thus far, we reserve the right to raise all these issues in the future, at every step of the proceedings.

Very truly yours,

Moly Erickson

cc: Leslie J. Girard, Assistant County Counsel

RECEIVED
FEB 09 2009
RMA
Telephone
(831) 373-1214

Facsimile
(831) 373-0242

LAW OFFICES OF
MICHAEL W. STAMP
479 Pacific Street, Suite One
Monterey, California 93940

January 16, 2009

Alana Knaster, Assistant Director
Resource Management Agency
County of Monterey
188 W. Alisal Street, 2d Floor
Salinas, CA 93901

O-21j

Subject: GPU-5 Draft Environmental Impact Report – Procedural Errors

Dear Ms. Knaster:

We have received your letter dated January 8 and postmarked January 9. Your letter states that you have placed our letter of December 23, 2008 in the comment letter file and will be preparing a response as part of the "Response to Comments" section of the FEIR.

Our letter of December 23 did not include comments on the Draft EIR. We provided the County with our review and understanding of County records and representations for the Draft EIR. We pointed out numerous procedural errors under CEQA and requested the County fix them before recirculating the Draft EIR to the public.

Without acknowledgment or explanation, the County has ignored our procedural comments.

Additionally, many of the document links provided on the County website for the Section 11 reference documents still do not provide public access to the documents. Some of the links take the reader to an incorrect website, others say things such as "Address not found," "404 not found" and "Not Found." For example, the link provided by the County for document number 144, "SVWP Project Description" takes the reader to a website called "www.com," and not the document stated. As another example, the link for document number 119, "2003b. Housing Element. Adopted November 4, 2003," says "The page cannot be found." The County website says that this document is only available online, but the document is not accessible using the link provided by the County. This list provides examples only. It is not exhaustive and we continue to discover additional problems.

Very truly yours,

Moly Erickson

O-21k

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

Telephone
(831) 373-1214

February 2, 2009

Carl Holm, Assistant Director of Planning
Planning Department
County of Monterey
168 W. Alisal Street, Second Floor
Salinas, CA 93901

Subject: Comments on Draft Environmental Impact Report for GPU5

Dear Mr. Holm:

These comments are submitted on behalf of The Open Monterey Project. The Open Monterey Project is an association that works toward transparency and accountability of government. The Open Monterey Project has been active in County land use issues for over five years.

1

The Open Monterey Project joins in the comments of other groups, including those of Landwatch Monterey County, the Sierra Club, and the Carmel Valley Association.

GENERAL COMMENTS AND REQUESTS

A fundamental informational problem with the DEIR is it fails to provide a side-by-side comparison of the proposed GPU5 with (1) the existing 1982 General Plan, or (2) the current on-the-ground conditions. As a result, the DEIR never clarifies what changes it is analyzing – because in order to analyze proposed changes, you have to know what the change is to. Instead, the DEIR approaches the GPU5 analysis as if in a vacuum. If you determine that either is the baseline, then the EIR analysis must compare the GPU5 to that baseline.

2

The Draft EIR is very difficult to understand because it fails to provide a cognizable comparison of the 1982 General Plan with the proposed GPU5 plan. The DEIR should include a side-by-side comparison of the current policy as compared with the proposed policy. Such a comparison should have been provided for the EIR preparer's reference, and it should be provided to the public. That is the only way the public can start to comprehend the impacts of going from one plan to the other. The omission is a serious informational gap that is prejudicial to the public.

Are any of the impacts of or mitigations for the GPU5 affected in any way, or dependent upon, any fee-based mitigation, such as payment into a traffic fund, the establishment, funding of, or support for any preserve or parklands, or other payments in lieu of actual mitigation on site? If so, please identify each such fee-based mechanism and describe in detail all environmental review (with citations to the

3

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 2

underlying documentation) that has been conducted in regard to such a mechanism or mitigation. In addition, for each such mechanism, please state when the mechanism and its fees were last reviewed by the County, and whether the mechanism is in fact a legal and environmentally sufficient mitigation.

3

Are any of the impacts of or mitigations for the GPU5 affected in any way, or dependent upon, a program, policy, code section, or regulation of the County that the County has not enforced fully or been able to enforce fully at any time in the last ten years? If so, please identify each such program, policy, code section, or regulation, and describe the lack of enforcement and, if any, lack of funding for full enforcement.

4

Please note that many of our comments and questions are preceded by a citation to the DEIR. In many cases, that citation is presented to assist the EIR preparer by providing a reference for the issues or statement that underlies the comment or question. The citation is not intended to limit the comment or the response.

If information requested by us is located in another part of the DEIR, please provide the specific reference to the DEIR page and DEIR subsection heading (in other words, do not merely provide a chapter or section heading, because the chapter may be 200 pages long).

5

If information requested by us is in a listed reference document, please provide the name of the reference document, the DEIR page on which that document is listed as a reference document, and the specific page and subsection heading of the document because many of the reference documents are hundreds of pages long.

If information requested by us is not found in the DEIR or a reference document, please provide the information and the source document by title, author, year, and page number.

Some of these comments possibly were addressed by the purported changes and additions made by the County to the EIR and the General Plan document. Those changes and additions to the EIR and the General Plan document; these changes were made by the County in December 2008 or in other documents. Those changes and additions were not clear, and were confusing. Further, the changes create inconsistencies with other EIR and General Plan materials (for example, the new Carmel Valley map creates inconsistencies with the greater Monterey Peninsula map). If any of your responses refer to the December 2008 changes and additions, please be specific as to the document on which you rely and the manner in which you believe the changed or added materials supports your response.

6

The entire discussion in the DEIR is very hard to follow and verify because the DEIR usually does not identify by number which GPU5 policies are being analyzed or

7

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 3

discussed. In other words, for any given analysis, the DEIR does not clarify which proposed 2007 General Plan policies it is analyzing. That omission makes it nearly impossible for the public to be able to review the analysis and compare it to the proposed project.

As one example of this omission, see the DEIR Alternatives analysis. The DEIR freely compares the alternatives to the project, without specifying which policies of the alternative it is comparing with which policies of the proposed project. The DEIR should be revised to include specific references to policies by number (or by chapter, where appropriate), so the public can understand exactly what is being discussed and whether the discussion is adequate. Then the revised DEIR should be recirculated.

As an example of a paragraph that due to its failure to cite to specific policies is made impossible to adequately review, see page 5-9:

The 2007 General Plan contains more specific policies intended to channel development into existing cities, Community Areas, and Rural Centers, in that order. The policies of the 2007 General Plan would focus growth into higher density Community Areas as the first tier for new development, with subsequent growth in Rural Centers (second tier for new development). The 2007 General Plan also provides for agricultural buffers and identifies specific criteria by which to establish those buffers, but does not require that all buffers be permanent or dedicated in perpetuity. Other policies state that agriculture is to be the "the top land use priority for guiding future economic development on agricultural lands" and require the County to establish a program that requires mitigation for the conversion of important farmland that is to be annexed to cities, with specified exceptions. The 2007 General Plan also establishes policies intended to avoid regulatory constraints on "routine and ongoing agricultural activities." This is meant to encourage continued agricultural activities. Along this line, the ACWFP would authorize wineries within its boundaries that would enhance tourism and provide additional income to wine grape growers.

In the discussion cited above, there is no reason that the DEIR analysis could not have identified the policies by number or chapter. Please respond. The effect of the DEIR omission means that adequate public review is extremely difficult, and reasonable and meaningful public review has been thwarted.

7

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 4

As a further example of how the environmental review documents are confusing, difficult to read and difficult to understand, the CD distributed by the County contains both the GPU5 and the DEIR. However the, figures, tables, and exhibits and appendices listed on the menu displaying the contents of the CD are jumbled together in one long list. The public has no way of knowing what is in each file without opening it. Even then, in many cases, the open file does not identify in which document – DEIR or GPU5 – it belongs, or where in the document the figure, exhibit or table belongs. (See Exhibit A, files on GPU5/DEIR CD distributed by County to public.)

The organization of the DEIR is internally inconsistent, confusing and impossible to review and understand. For example, in the alternative discussion, the format varies. Development Comparison is a major subheading in some alternatives and minor in others. Each alternative is identified by the number five followed by the number of the alternative, e.g., 5.3 to 5.7. The analysis is then further divided numerically. However, the numbering of the analysis of each alternative is inconsistent. For example, population and housing is section 16 of alternative 5.5 (General Plan Initiative), but section 15 of alternative 5.6 (GPU4), and section 14 of alternative 5.7 (Transit-Oriented Development).

The DEIR tables are poorly formatted. Numbers should be justified so they line up with other numbers in the column. This basic formatting is important to make the information accessible to the public.

The DEIR's inconsistent organization is continually off-putting, and confounding to even the most diligent reviewer. For example, headings and subheadings are not accurate, information is not correctly organized under the appropriate subheadings, and within the same discussion category different areas are treated differently.

The DEIR frequently reviews the GPU5 text out of order (instead of in the order of appearance in the GPU5), requiring the public to search the GPU5 for the appropriate text, without guidance. For example, in its review of water quality impacts, the DEIR reviews the Area Plans in a different order from that in the GPU5 (see pp. 4.3-94 and -95).

The DEIR does not have an adequate table of contents. The subheadings of each chapter of the DEIR are variously delineated (capitalized, bold, underlined, italicized, etc.), but not presented in a way to assist the public review the document. These headings are confusing and misguide the public. For example, the water discussion is over 200 pages, including figures, with headings and subheadings on almost every page. To find a section, the public must hunt through pages and pages of information in each chapter without a guide. It is very difficult for the public to find specific information in the DEIR. The DEIR should provide a table of contents for each chapter which includes every heading, subheading, page numbers and a numeric reference. Forcing the public to sort through hundreds of pages of information to find a

7

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 5

subsection is extremely cumbersome and prevents meaningful review. The DEIR should be recirculated to include a clearly labeled table of contents as described.

The September 3, 2008 document entitled 2008 General Plan Update Errata/Addendum released with the Draft EIR claims that on the first page that it contains typographical errors, narrative data and mitigation measures. However, it contains for more than that which it does not disclose. For example, on page 7 are two proposed land use designation changes. These designations have been proposed by County staff without authority from the Board of Supervisors that they be included in GPU5. Please explain how these came to be included, what the standards were for inclusion, whether any person was denied their request to have their land use designation included in the GPU5 errata, and how the County notified the public that the public was able to apply for inclusion for GPU5 without Board review. Please state the Planning Commission and Board of Supervisors meeting dates where these land use designation changes were considered, the direction of those bodies, and whether the Planning Commission or Board of Supervisors approved the inclusion of these two requests in the GPU5. Please identify where in the GPU5 and DEIR text, maps and figures of these two requests are disclosed to the public. Please also identify where in the Draft EIR the impacts of these two requests are analyzed and considered.

The Draft EIR and the 2007 General Plan are very confusing and poorly organized. These two documents contain approximately 1760 pages of information. The General Plan is very difficult to use as a reference and the DEIR is very difficult to review, due to the issues identified elsewhere in this letter and by other commenters. In the DEIR, page numbers, tables, and figures are not understandably labeled and headings are missing in places. These organizational problems add to the difficulty of understanding the inadequate analysis in the DEIR.

In December 2008, the County released a six-page document titled "Updates to citations in text and errata related to citations (December 2007)." That document's own title has an error, because it is incorrectly dated 2007 instead of 2008. The rest of the "updates and errata" is similarly filled with errors. For example, in directing the public to corrections of DEIR errors, the document in over a hundred different entries adds an extraneous zero to various DEIR section numbers, for example referring to section "4.03" although "4.03" does not exist. It appears to mean section "4.3."

The updated (December 2008) Section 11 reference list provides links that the public cannot access, and the Citation and Text Errata does not provide the missing information. Some Section 11 reference documents are listed as only "Available on the web," but the links provided by the County do not work. For example, document 14.1, "Hydrogeologic Investigation of the Salinas Valley Basin in the Vicinity of Ford Ord and Marina, Salinas Valley, California. Final Report" says that it is "Available on the web." It is not available at the web address provided in Section 11. That URL says "404 Not Found." For another example, the link to the "2003b. Housing Element. Adopted

7

8

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 6

November 4, 2003. In 2007 General Plan" says "The page cannot be found." Reference documents 209, 210, and 211 tell the reader to "type in the particular amphibian or reptile species of interest to access information about that species." We want to know the specific information used by the EIR preparer. The public should not have to guess what search criteria were used and try to replicate the search. Please address this issue.

The DEIR repeatedly refers to uses or projects as "discretionary." Projects are not discretionary; permits and approvals are. Please clarify and correct. Also, the DEIR repeatedly fails to clarify what it means by "discretionary" – by whom, and on what basis? For example, is the term "discretionary" used to refer to permits under the GPU5, or under the County Code, or under CEQA, or something else? Please be specific.

As a general rule, our comments on "2030 Planning Horizon" analyses apply equally to "Buildout" analyses, and vice versa, unless otherwise specified.

The Figure S-2, 100 Year Floodplain, shows black lines where rivers should be. The only legend for black lines is "Major Road." On the map there is no distinction between river and major roads.

A critical and fundamental error throughout the DEIR is the failure to adequately state, describe, investigate, and critically analyze the issue of development on steep slopes. The DEIR is missing the maps that would show how the proposed change in steep slope development would affect specific areas. It also fails to quantify the number of acres in each part of the County that would be affected, and it fails to provide a baseline and an adequate measurement or assessment of impacts. It also fails to identify the specific losses of different species and biological resources such as the oaks woodlands, animal habitat and corridors, and cumulative impacts on species. This is a critical issue affecting an enormous and highly important area of land throughout the County, and marks a dramatic deviation from existing policies and on the ground conditions. The DEIR minimizes the magnitude of the issue and its impacts and fails to understand or accurately inform the public of the issue and its impacts.

By failing to provide sufficient information and critical analysis, the DEIR overlooks site-specific and cumulative impacts in essentially every area of the DEIR. We highlight some of those areas later in this comment letter, and those comments are illustrative and not exhaustive. Areas where the steep slope information, investigation, and analysis render the DEIR grossly inaccurate or incomplete include but are not limited to project summary (1.2), key components (1-3, table 1-1), summary of environmental impacts (1.3), areas of controversy (1.6.1), project description (section 3), each of the impacts discussed in Chapter 4, including water supply, traffic congestion, biological resources, aesthetics, climate change, and light and glare. Similarly inadequate are the discussions in Section 1 as to history of the general plan

8

9

10

11

12

13

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 7

update (controversy surrounding steep slope development), existing land use patterns, baseline, alternatives, geology, soils and seismicity, air quality, noise, open space, and climate change. The same failures are present in the description and analysis of mitigation measures, the significant impacts listed, the growth inducement factors, and the cumulative impacts. The same failures are highlighted by the DEIR's approach to the impact analysis, typified by the remarks in 2.5, pages 2-7 to 2-9. The mechanisms of the General Plan to allow such increased development (ministerial, discretionary, or other types of approvals and changes in standards) are not identified, explained, investigated or considered.

13

Another fundamental error is the failure to consider the cumulative impacts of the GPU5 that would result from the proposed changes to the Local Coastal Plan to make it consistent with the proposed GPU5. The amendments to the LCP are envisioned and planned now. The consideration of these cumulative impacts at this stage is essential under CEQA. If you disagree, please provide authority for your position.

14

Executive Summary

1.4.1, p. 1-39

What overlap is there in the Important Farmland and Williamson Act farmland? The discussion is vague and unclear as to how many total acres are affected. Please describe exactly how many acres or each, how many acres "overlap" (fall into both categories), and how many total acres are affected? Please describe with specificity the source(s) for each figure.

The numbers at 1.4.1 on page 1-39 are inconsistent with numbers used later in the DEIR for the Williamson Act information. Please explain the research and methodology used to determine your answer, identify the reference used to determine your answer, and provide your calculations.

15

Please explain whether all the "Williamson Act farmland" is active farmland or includes open space. Please explain whether all of the acreage is under a Williamson Act contract, how much acreage is under Agricultural Preservation and how much acreage is under Farmland Security Zone, why the two are combined under a single "Williamson Act" designation, and whether and how this changes the DEIR analysis. Please provide your data, as well as the sources for the data so the public can verify it.

Please describe in detail where the EIR preparer obtained the information on Williamson Act lands, because when our Office tried to view a Williamson Act contract, the County Planning Department did not know where the Williamson Act contracts were kept, and could not find them in County records. The County eventually asked the property owner to provide the County with a copy of the contract (see County files for Lehman/Eaton application PLN050371, Cachagua land use area, Carmel Valley).

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 8

1.4.2, p. 1-39

The first sentence refers to "significant impacts to groundwater resources." What is meant by the subsequent sentence "the Salinas Valley Water Project avoids this impact in the Salinas Valley"? The first sentence uses the plural "impacts", the second uses the singular "impact." Please describe exactly which impacts are referenced. Explain why the second sentence is to only one impact, and which one.

In the sentence "the Salinas Valley Water Project avoids this impact in the Salinas Valley," the statement is not true, because the SVWP is not a water supply project. The County has repeatedly stated that the SVWP is to provide water to decrease the impact of seawater intrusion due to overpumping. The intent is not to supply new water, meaning a new supply that can be used or relied upon for new development. If you disagree, please describe with specificity the sources on which you rely, and explain why they supersede the County statements cited.

In the above quoted sentence, exactly what physical area is meant by the phrase "the Salinas Valley"? Please provide a map with outlines. This is a significant issue: the entire DEIR seems to be confused about water basin boundaries and groundwater supply sources, and the DEIR makes sweeping claims apparently based on the DEIR confusion and inconsistent references. What most people refer to as the Salinas Valley is different from the Salinas Valley basin, or aquifer, but the DEIR does not seem to understand that important distinction. This issue should be clarified throughout the DEIR. See other comments on this topic, as well.

16

The EIR preparer does not understand the County watersheds and water areas and subareas. The DEIR discussion omits the North County water subareas that are not in the Pajaro basin. Those subareas will not receive any benefit from the SVWP because they are uphill from the Salinas Valley aquifer. Please address in detail, and do not respond with a conclusory reference to another document. The County documentation shows that the SVWP benefit to these areas may be zero. Curtis Weeks has admitted that without a distribution system (unplanned and unfunded), the SVWP will not benefit these areas. The GPU5 growth will exacerbate the existing overdraft in these areas.

As to the Salinas Valley in general, the SVWP will not change the available water supply because the SVWP is not a water supply project. It is a seawater intrusion project. Accordingly, the DEIR claim that "the Salinas Valley Water Project avoids this impact in the Salinas Valley" is incorrect and should be corrected.

The incorrect claim that "the Salinas Valley Water Project avoids this impact in the Salinas Valley" should apply only to the 2030 planning horizon (see the SVWP EIR), but the EIR is vague on this point. The sentence should be clarified.

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 9

The discussion omits the Seaside basin, on which thousands of residences and businesses rely. That basin is being overdrafted, and moratoria are in place on development in some subareas. For years, the County has inaccurately predicted and inaccurately analyzed the amount of water demanded by subdivisions, as County records show. Please include, discuss, and explain.

16

1.5.4, p. 1-41

The description of this project is inconsistent and biased. To be consistent with the description of General Plan Initiative Alternative, the description should state that General Plan 4 was "drafted by the County" and that it was placed on the ballot by referendum, and "considered and defeated by voters on the June 2007 ballot."

17

Table 1-3, p. 1-43

The notes should be numbered. The description for GPU4 is "2006 General Plan and adopted General Plan 2006" – what does that mean? The previous page 1-41 states that the GPU4 was adopted by the Board of Supervisors in January 2007.

1.6.1.2, p. 1-45

The DEIR reference to initiatives being "underway or in the planning stages" is overly vague and as a result the analysis is very unclear. For each watershed, please be specific about which "initiatives" are "underway or in the planning stages." Please address whether the initiative is permitted, funded, adopted, subject to legal challenge under CEQA, subject to other regulatory approval, and/or controversial. The DEIR should give an objective estimate of when the "underway" initiatives will be fully operational, and analyze the short term impacts that will occur before that time, and the long-term impacts that will occur if the "planned" initiatives are never operational. These issues are important because this DEIR summary omits critical information and repeatedly misrepresents the state of the County water supplies.

18

The DEIR incorrectly represents the Salinas Valley has enough water to support project growth until 2030. That is true only if the EIR considers mining the water source to be acceptable. The Salinas Valley basin is overdrafted. Merely having water in the aquifer does not mean the supply is sustainable. The EIR should acknowledge Salinas Valley supply is being overdrafted, and the growth will perpetuate or worsen the overdraft. The SVWP will not solve the water supply overdraft, as County Water Resources Agency admits. If you disagree, please be very specific as to your references and provide your analysis.

The DEIR once again is flawed because it omits reference to the North County subareas that are not in the Pajaro basin, and to the Seaside basin. Both these areas

19

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 10

are overdrafted, and have significant water supply and/or water quality issues, as County records show.

19

As to the Pajaro Valley, please describe the planned or active initiatives that "are halting" seawater intrusion. Please be specific as to the status and the funding as of the date of your response.

1.6.1.4

The EIR discussion under 1.4.1 on p. 1-39 is of "more than 5,500 acres of Important Farmland . . . and more than 7,000 acres of Williamson Act farmland" with "overlap." The numbers stated here are "more than 5,400 acres of Important Farmland and 6,700 acres of Williamson Act land (much of it overlapping)." Please state where each of the numbers came from, how they were calculated, how much of the two categories are overlapping, how many total acres are impacted, clarify which numbers are accurate, and make the DEIR internally consistent. Please state whether "Williamson Act farmland" includes contractually protected agricultural preserve and/or farmland security zone land.

20

Please explain exactly how the 4,629 lots of record were calculated, and the zoning of those lots, and whether residences can be built on every one of those lots. The numbers look wrong.

21

The last sentence ends with a comma, and appears to be a partial sentence. Please clarify.

22

1.6.1.5

The first sentence states that development "would occur in areas that contain sensitive plant and animal species, riparian areas, and wetlands." Why does the second sentence use the qualified "could" to describe impacts? If those areas are converted, the loss or degradation would be certain. Please correct the DEIR. If you disagree, please explain in detail why development in those sensitive areas would not cause certain loss.

23

Please describe the research, assumptions, methodology, calculations, and analysis that support the EIR conclusion that the loss or degradation would not be certain. Please also provide the research, assumptions, methodology, calculations, and analysis that support the conclusion that the loss or degradation would be certain.

24

1.7

The County has a biased and preconceived notion of what happens in the public review process. At this early stage, the County is apparently so certain that the EIR is

25

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 11

acceptable that the County is convinced that the Board of Supervisors will certify the Final EIR. The EIR also reveals that the County is also convinced that the overriding considerations exist and outweigh the significant and unavoidable impacts. This is more continued County arrogance. The County is being very obvious in its disdain for the public review process, and for public comments that may show the GPU5 to be environmentally unacceptable. In fact, the Board may reject the Final EIR and refuse to certify it. The EIR should correct its statements, and state the law under CEQA. The Board has discretion to reject the EIR. The Board may also reject the GPU5 without certifying the EIR.

25

1.8

The County has admitted that the CV Traffic Plan EIR is on hold pending this General Plan DEIR. Jones & Stokes knows that already, because J&S is preparing the CV Traffic Plan EIR. However, J&S failed to list it on page 1-48. Please address and respond in detail.

26

Introduction

2.1.1

Please state the sources relied on for the statement "most general plan EIRs identify significant and unavoidable impacts," and please list those EIRs.

27

Please see comments above regarding the EIR's inappropriate and biased presumption that the County will adopt a statement of overriding considerations in order to approve this project.

28

2.1.2

Please describe what is meant by the statement that the County has "an extensive array of . . . lands devoted to mineral extraction." We are confused by the statement because we are aware of only a small number of such lands, which is very different from the claimed "extensive array." If there is an "extensive array" it would lead to a different environmental analysis, but without knowing which lands the DEIR refers, we cannot ask informed questions. Please list the lands by site, the acreage of each site, and the mineral(s) being extracted, and recirculate the DEIR.

29

2.1.3

Please tell us which information from the GPU4 Final EIR has been used in this GPU5 EIR. This information is lacking, and is important because it would inform the public as to the currency of this GPU5 analysis and the change in policy and impacts. As to the GPU4 EIR information that was used for this EIR, have all the references

30

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 12

been disclosed to the public during this public review period? Please identify where those disclosures are made, or provide them.

30

2.2.1

Please provide the "list of extensive contacts made during the consultation period" for the Draft EIR. The DEIR states that they are available to the public. Please also provide all of the state and local agencies that the County consulted with through the CEQA process. The DEIR states that this information is available. For each agency, please provide the name of agency, the individuals that the County consulted and the information gleaned.

31

Project Description

3.1

Please explain whether unincorporated land in the coastal zone would be subject to the GPU5. This section specifically states that the "2007 General Plan covers all unincorporated portions of the County." (P. 3-2) Earlier GPU versions included significant updates to the coastal land use plans (p. 3-3). Does GPU5 include any changes to the coastal land use plans? If so, please state the specific changes. The GPU5 indicates that it covers the 12 planning areas (inland and coastal), and three area plans (including plans that include coastal areas).

The GPU5 statement is this:

The County is not amending the Local Coastal Program as part of this 2006 General Plan. The County will review the LCP after adoption of the 2007 General Plan Update. If any of the goals, policies, and standards of the 2006 General Plan are to be incorporated into the LCP, such proposals would be subject to all appropriate public review procedures, including noticed public hearings, separate action by the County Board of Supervisors, and submission of major LCP amendments to the Coastal Commission for certification. (2007 Monterey County General Plan, p. vi.)

32

Why is this discussion not in the DEIR? What implications does the GPU5 two-step approach have? What goals, policies, and standards of the 2007 General Plan have been identified as those that should be incorporated into the LCP? What if the GPU5 is adopted and LCP amendments are necessary, but the Coastal Commission does not certify those amendments? What environmental implications does that have for the coast and for the inland areas? Why does the GPU5 apparently distinguish, as here, between "major amendments" which would be submitted to the CCC, and other

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 13

things that might not be "major amendments"? How would the latter changes be implemented?

It appears that the two references in this quoted excerpt to the "2006 General Plan" are incorrect and should refer to the 2007 General Plan. If not, please clarify.

Given "the unique planning considerations" of the coastal zone that "may require different standards and policies than may apply in the non-coastal areas of the County" (GPU5, p. viii), has the County identified any county-wide GPU5 standards or policies that should not apply in the coastal zone? If so, what are they, and where in the coast should they not apply? How does that information affect the environmental analysis? Does the environmental analysis take into consideration the impact on the coastal zones by GPU5, or does the environmental analysis avoid discussion of impacts of GPU5 on the coastal zone? Please be specific, and provide authority for your response.

32

It is misleading for the DEIR to imply that there might not be amendments to the LCP as a result of the GPU5 (e.g., "If any of the goals, policies, and standards of the 2006 General Plan are to be incorporated into the LCP..." [Emphasis added]). That is inconsistent with GPU5, which mandates that such amendments "shall" take place. E.g., "To the extent that the Castroville Community Area is located in the coastal zone, that portion of the Community Area shall require an amendment to the Local Coastal Program certified by the California Coastal Commission as part of the Community Plan process." (GPU5, LU-2.22.) The DEIR should be corrected to present the facts and processes accurately, then the DEIR should be recirculated.

Amendments to the coastal area guidelines are a known and foreseeable future action. They should be addressed in this analysis.

3.2.1

The DEIR makes a confusing statement that the "complexity of the general plan... requires that it meet all of the following objectives in order to be effective..." Please explain what is meant by that sentence. Assuming it is adopted and implemented, the general plan is presumed to be "effective" no matter what it says or what objectives it does or does not meet. The sentence must mean something else, and we would appreciate a clarification.

33

Please explain how establishing an Agricultural Winery Corridor Plan (AWCP) is necessary to make the general plan effective. If in the future the Board (or the voters by initiative) reject the AWCP as an element of the general plan, but approve the other elements, there would be no AWCP. In that case, the general plan would still be effective, correct, without the AWCP? Please respond in detail, because the issue of project objectives is critical to the analysis of the alternatives and the mitigations.

34

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 14

As a general question, what is the authority for the AWCP relative to the General Plan? Please clarify whether the AWCP is the equivalent of an area plan, or an overlay, or something else.

The County proposes to exempt the AWCP development from further CEQA review, once the GPU5 EIR is approved. In order to do that, this EIR must provide a project-level review of the AWCP development. However, there is no such project-level review here. The EIR fails as an informational document. The failure is prejudicial, because it prevents the decision makers and public from understanding the impacts of the AWCP development before that development is approved.

34

3.2.2

If the County's Housing Element is good for 2003-2007, as claimed here, or even 2002-2008, why is the element not being updated now, in 2009? Given the County's current focus on planning, efficiency goals, the importance of inter-relationships of the planning and environmental issues, and the remarkable and ongoing changes to the housing market in 2007-2008, the Housing Element update should be done now, in conjunction with the GPU5.

35

Is there a draft version of the Housing Element update?

Are any amendments to the existing Housing Elements necessary to achieve internal consistency? If so, please explain in detail.

What is the functional difference between the Area Plans and the Master Plans in the GPU5, assuming they will be adopted? The GPU5 states the two Master Plans will be treated differently: The CVMP as the area plan within an area plan, and the Fort Ord Master Plan as a Community plan within the area plan. Please explain all the differences, and the planning and environmental impacts of each.

36

WATER RESOURCES

The DEIR discussion of water resources is entirely inadequate under CEQA. As one example, the DEIR fails to adequately investigate or quantify the demand or the supply, both in the regions and in the County as a whole.

37

Cumulative Impacts

The DEIR fails to identify, include, evaluate or assess water resources impacts on coastal zone, even though it is known that after approval of the General Plan, the County intends to apply to amend LCP to match the General Plan. These cumulative impacts must be included in this EIR analysis.

38

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 15

Drought

The EIR fails to investigate and present information as to drought. Drought is a known and regular event in California and in this County. Last week, California officials announced that the state is on the edge of what may be the worse drought in history.

Drought decreases County water supplies, and also increases water demands on those same depleted resources. The EIR should analyze the impacts of GPU5 on drought scenarios: severe yearly drought, and multi-year drought cycles. The analysis should include impacts on water resources, biology, wastewater, land use, and all other appropriate categories.

Salinas Valley Water Project

Because the EIR relies on the SVWP to reduce impacts of the GPU5, the EIR should review the effectiveness of the SVWP in drought scenarios. During times of drought, the SVWP would likely have a much lower level of beneficial impacts, to the extent the SVWP has any beneficial impacts at all. Drought impacts water supplies in several ways. For example, lower precipitation levels directly reduce the amount of recharge to the aquifers. In some North County subbasins, rainfall is the only recharge to the aquifers. In the Salinas Valley, rainfall both recharges the aquifers and refills the reservoirs. Lower precipitation means less water in the reservoirs, which means less water to release into the Salinas River. In the Salinas Valley, approximately half of the total basin recharge is from stream recharge. The EIR should investigate and report the impacts of a multi-year drought on the ability of the County to obtain the projected results from the SVWP, and whether the SVWP would have sufficient stored water to meet the instream Salinas River flows required by the resource agencies.

As to any expansion of the SVWP system, the 2001 SVWP EIR estimates the expansion as over \$40 million. There is no funding and no design or planning of an expansion. To put the \$40 million figure in context, the SVWP project costs are approximately three times the original 2001 estimate, even after significant reductions in project scope due to cost concerns. Using that as a guide, that would put the cost of expansion at \$120 million, after undefined reductions to the scope (and therefore effects) of the expansion.

To the extent that the EIR asserts that North County basins are in the Salinas basin and therefore benefit from the SVWP, please specify the source(s) and page(s) for that assertion. That assertion is not supported by the technical information in the County's possession. Highlands North and Granite Ridge are upland from the Salinas Valley basin. Their water sources are limited aquifers that are recharged by rainfall. The Salinas Valley aquifer does not provide water to those higher-elevation subbasins.

39

40

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 16

In response, to the extent the EIR points to statements in the SVWP EIR, the Montgomery Watson report, or other SVWP reports, please be specific, and investigate the source for the statements. The SVWP EIR and the Montgomery Watson report made conclusory statements about how the North County received a "benefit" but there was no reasonable explanation, and no supporting technical data from North County. The claim that North County received a "benefit" from operation of the reservoirs or similar river-related activities was designed to support the effort to expand the claimed "zone of benefit" for Proposition 218 (tax funding) purposes. By including North County in the SVWP funding zone, the County was able to assess North County property owners at the highest tax rate, and to bring in a huge amount of funding for the SVWP. In other words, the County had an incentive to claim that North County received some (but possibly zero) benefit from the Salinas River, and to overlook the lack of technical data supporting the claim. To the extent that you rely on maps of purported "zones of benefit" in your response, please make sure the map is legible, and the boundaries of the "zones" clearly defined relative to the boundaries of the North County subbasins.

The Montgomery Watson report's assertion that some North County areas received a "0-5%" benefit from the operation of the reservoirs is unreliable because the report did not cite to any data that supported that conclusion. Our Office has performed extensive research of all the SVWP files available at the MCWRA. The data underlying the report did not include any wells in the North County area. That omission means that there was no technical data to support a conclusion that the North County area benefited from the operation of the reservoirs. That unsupported conclusion was, in turn, the basis for the conclusion that the SVWP would provide a benefit to the North County area. Please investigate whether the North County would receive any benefit from the SVWP, and describe the steps and results of your analysis. To the extent that the EIR preparer relies on the "0-5%" conclusion of Montgomery Watson, please evaluate the possibility that the impact is 0%, and please quantify what a "0-5%" benefit actually means to the North County aquifers.

To the extent that mitigations or impacts are evaluated based upon the presence of the Salinas Valley Water Project, please discuss whether Proposition 218 has been complied with in regard to all pertinent aspects of that Project, and whether any of the voter approval provisions of California law and the California Constitution affect in any way the feasibility, effectiveness, or applicability of the SVWP under this DEIR.

The EIR should analyze the consistency of the GPU5 with the policies adopted in the SVWP EIR. For example, the SVWP EIR (p. 3-86) included the following statement adopted by the County:

The MCWRA will work with Monterey County and the cities and communities within the County to encourage maximum use of water conservation practices in new development,

40

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 17

including the use of ultra low-flow water fixtures and drought-tolerant/low water demanding landscaping.

The County requires some compliance with these goals at project approval, but rarely enforces them after the conditions of approval have been signed off. To carry out the policies of the County, the EIR should consider a mitigation that requires deed restrictions on all new development requiring the use of ultra low-flow water fixtures (including toilets, showerheads, dishwashers, and washing machines) and drought-tolerant/low water demanding landscaping.

The EIR fails to analyze the GPU5 policies relative to the SVWP EIR concerns about the growth-inducing impacts of the SVWP that would cause increased development. The County then adopted the policy (SVWP EIR at p. 3-86) that the County "should aggressively implement general plan policies and other zoning ordinances and programs that result in reducing potential environmental impacts, including impacts to agriculture [and] water use. . . These are reasonable requests that would help reduce potential impacts from land use conversion." The concerns about increased development and land use conversion are borne out by the proposed GPU5 policies that induce such development and at the same time rely on the SVWP as mitigation for the development's increased water demands. Please investigate, analyze, and respond.

The SVWP is intended to relieve additional seawater intrusion. The SVWP does not provide additional sustainable supply. The Salinas Valley is being overpumped to the tune of tens of thousands of acre feet. In order to create additional (new) water for development, the County first must reduce pumping to a sustainable level, or create new water or conserve water so that the pumping level becomes sustainable. Sustainable means that the basin is in balance: the amount being pumped does not exceed the amount of recharge. The SVWP does not provide sufficient new water to bring the basin into balance. The DEIR repeatedly and incorrectly claims that the SVWP will provide "new water for new development." (See, e.g., p. 4.3-1.) Please respond in detail, and provide the specific citations (reference names and pages) that you rely on.

As to the Monterey Peninsula, the DEIR is inaccurate, and makes unsupported assumptions. The assumption that "the Cal Am seawater desalination plant is permitted and operational by 2015 as currently expected" is not reasonable. The Draft EIR has not even been released for that project, which is expected to be very controversial and have significant impacts. Those impacts are not identified or considered in this GPU5 DEIR. Further, the basis for the assumption is not provided. Further, the Cal Am plant is intended to provide water to relieve Order 95-10 as against Cal Am's pumping from the Carmel River. The plant would not provide water for growth for the County or for the cities. If you disagree, please be specific, and cite to supporting documents and pages thereof.

40

41

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 18

Please provide all support, including investigation and quantified detailed amount of supply and demand, to support the DEIR claim that "supply on the Monterey Peninsula will be adequate to meet current demand." (p. 4.3-1)

The DEIR also fails to identify and adequately address the pending draft cease and desist order (CDO) from the State Water Resources Control Board, or the impacts of the expected final CDO.

There is no evidence that the SVWP will "halt seawater intrusion" with certainty. That is the intent, but the results are uncertain. The DEIR should not rely on the SVWP halting seawater intrusion at any particular time, because the SVWP is not built, not operational, and not fully funded. In the meantime, the current conditions are that seawater intrusion is increasing. The SVWP EIR states that the benefits of the SVWP will not occur until the entire SVWP is fully operational. That will be many years away, if ever. As the description of the SVWP on p. 4.3-9 shows, the SVWP is not a water supply project.

The Seaside Area groundwater subbasin does not drain to the Salinas River to the north. The DEIR provides no citation for this claim at page 4.3-10. The Seaside Area drains into the Monterey Bay at a location much farther south than the Salinas River.

The discussion of North County watersheds (P. 4.3-14 to -16) is fatally flawed because it fails to mention that all five subareas are in severe and pervasive overdraft, as documented by Fugro in 1995, and there are no projects to address the overdraft.

Granite Ridge is outside the PWWMA jurisdictional boundary. Please describe in detail what actions the PWWMA is taking about Granite Ridge, as the DEIR claims.

The discussion of the Salinas Valley watershed and the North County areas fail to adequately disclose the extent and severity of seawater intrusion, so the description of current conditions is inadequate. This information and maps are available at the MCWRA, and should be included.

The discussions of the current conditions in each watershed should include known pumping, known capacity, known recharge, and a discussion and quantification of sustainability. The DEIR does not provide this information, although much of it is available and in County files. As provided, the DEIR (4.3.3.2.2) is inconsistent in its treatment and discussion of each watershed.

The DEIR fails to assess existing entitlements, overlying users' rights and riparian users' rights. The DEIR fails to identify or discuss the problems of the Fort Ord water supply, especially in light of the proposed Fort Ord development in GPU5.

41

42

43

44

45

46

47

48

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 19

The DEIR should consider mitigations that require better agricultural management practices for all agricultural operations, specifically mitigations designed to reduce erosion and sedimentation impacts. (P. 4.3-21.)

48

The DEIR should consider mitigations that require all irrigation ditches to be lined, to decrease the impacts of those ditches on erosion and sedimentation, and decrease the County costs of maintenance. (P. 4.3-21.)

The DEIR discussion of Carmel Valley should address the increasing numbers of vineyards in the Valley, and the moving around of large amounts of dirt without permits. The County currently does not require a permit for the dumping of dirt. Examples of this are the County's failure to require disclosure of receiving sites for graded materials, and the County records regarding the multiple dirt piles in the mouth of the Valley, including in the flood plain.

49

As to Nitrate contamination, the DEIR should consider a mitigation that prohibits the use of synthetic fertilizers that contain nitrogen that in turn breaks down to nitrate (see p. 4.3-22). An alternative mitigation would be to require a steady reduction of use of synthetic fertilizers to a specific amount that is less each year, with a mandatory zero use by the end of the 10th year. These mitigations would reduce the impact of increased agriculture, and would have significant benefits to the watershed, the habitat, and wildlife that depends on the water including endangered fish.

50

Please identify the four subbasins of the Carmel River in which subdivisions are prohibited, and provide the specific reference and page for that claim (p. 4.3-24). The DEIR fails to provide a reference citation, as it fails to do for the majority of its statements.

51

For the discussion of North County at page 4.3-25, please identify exactly which watersheds, subbasins are included. Please identify any that are excluded. Because the DEIR refers to North County inconsistently, it is important to determine what the DEIR means here. The DEIR should disclose the number of known wells in North County that are not part of a known water system, and the water quality in those wells. Why was that information not included?

52

The current maps of seawater intrusion should be included in the DEIR. They are prepared by the MCWRA and in the County's possession. The maps (see Exhibits 4.3.9, 4.3.11) date from before 2004, according to its legend. That is not only sloppy, under CEQA it is a failure to disclose pertinent information about current on-the-ground conditions.

53

Please explain the DEIR statement that seawater intrusion "may be reversed to some degree" (p. 4.3-25). Please be specific. This claim is not consistent with general

54

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 20

scientific understanding. Please provide your specific references, including page citations.

54

Exhibit 4.3.8 is very out of date, and shows 1998 nitrate contamination. The EIR preparer has an obligation to investigate and seek out current information.

55

Exhibit 4.2.10 is unclear what it means or what data it contains. Please explain the title "Water intrusion at 400-Foot Aquifer, Salinas Valley Groundwater Basin."

There is no DEIR map or exhibit that shows the seawater intrusion in the 400-foot aquifer.

56

Table 4.3-3 is outdated and inadequate. The data is from 1999, which is ten years ago. Please update and provide current numbers, and base your revised analysis on the current data.

Please investigate and discuss how many wells are in the Deep Zone (p. 4.3-26), who owns/controls those wells, who is consuming that water, and how much water is being withdrawn yearly from the Deep Zone. Also, what are the GPU5 policies as to the Deep Zone? The current pumping from the Deep Zone should be identified as an unsustainable and irreversible commitment of resources under CEQA.

57

To reduce unsustainable pumping of a very limited and irreplaceable resource, the DEIR should consider a mitigation prohibiting all new wells in the Deep Zone. The DEIR should also consider a mitigation limiting and reducing to zero the pumping of the Deep Zone over time.

The DEIR's environmental description of water resources fails to describe the Deep Zone. Please correct.

The DEIR inappropriately relies on a 1998 EIR prepared by Jones & Stokes, the same EIR preparer for this GPU5 DEIR. Jones & Stokes has an obligation to seek out and disclose the current information, and should not rely on its own 11-year old report that in turn relied on much earlier data. The DEIR should make a reasonable effort to determine whether there is evidence of seawater intrusion in the Carmel River aquifer.

58

Please describe what the DEIR means by "substantial seawater intrusion problems" (p. 4.3-27). That is a conclusory unsupported statement. It also fails to define "substantial" which may not have the same meaning as "significant" under CEQA. The existence of any seawater intrusion should be disclosed, because the Seaside Basin is being overpumped at an unsustainable level.

59

The DEIR should give the Seaside basin its own heading, and not incorrectly lump it together with the Carmel River watershed (p. 4.3-27). This is another example

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 21

O-21k

of why each section needs a table of contents listing all headings and subheadings and page numbers, and each subheading needs a numeric reference. 59

The reference to Exhibit 4.3.8 is incorrect (p. 4.3-27), and should be to another exhibit. 60

The discussion at 4.3.-27 of seawater intrusion of North County watersheds is inadequate because it ignores the seawater intrusion at Highlands South, and fails to discuss the magnitude of the problem. The discussion also fails to discuss the rate of seawater intrusion, and what is currently known about its severity, from County records. 61

Exhibit 4.3.11 "Seawater Intrusion at North County Groundwater Subareas" fails as an informational document because it does not show the groundwater subareas. Further, the information on it is outdated because it is from 1993, and the seawater graphics are wrong because they are inconsistent with current data and with the information on Exhibit 4.3.9 (which is itself outdated). 61

What and where is the "SR 168 corridor" described on p. 4.3-28? 62

The discussion of arsenic contamination at the top of page 4.3-28 is outdated because it addresses, as if happening in the future, a standard that took effect January 23, 2006, over three years ago (See "water systems . . . must comply with this standard as of January 23, 2006. Individual private and certain small water systems may not be able to achieve these standards . . ."). This is another example of where the DEIR fails to reveal when the EIR preparer did not do current investigation, but instead copied language verbatim from an old EIR or environmental report and pretended like it was applicable in 2009, without disclosing that the investigation was not current or that the language was plagiarized. The current situation should be investigated, and whether private and small water systems have been able to meet the standards should be disclosed, and if not, the challenges and obstacles should be disclosed and addressed. 63

What is the implication of the Fort Ord groundwater contamination for potable water supplies? Are there any wells near the contaminated areas, and if so, who do the wells supply, and what magnitude is the current and reasonably anticipated future demand? Please investigate and explain. 64

4.3.2.4

Please describe what the DEIR means by "available water supply." Do you include all wet water? Do you include contaminated water? Do you consider an overpumped aquifer which still has plenty of water but is being pumped more than is being recharged, is that an "available water supply"? The DEIR should correct its misleading language, and clarify when it means merely "available" as in "present," or "available" as in "not in overdraft, and can be pumped without creating or increasing an 65

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 22

O-21k

overdraft." These are critical differences in meaning, but the DEIR terms do not address these issues, or use terms precisely. The DEIR's vagueness here and throughout the DEIR is an pervasive problem. 65

The DEIR claims as follows (at p. 4.3-28 and 29):

For management purposes, the long-term objective is to ensure that these two variables are held in balance, and that demand does not exceed supply for a prolonged period.

Who made the decision that this is a long term objective? Whose objective is it? Why is the source, date, and page of the reference citation not provided? Further, how was this objective selected over other more environmentally sensitive objectives? What other objectives were considered, before this one was chosen? What does "in balance" mean? If it means anything other than "equally in balance" please quantify your response in objective, measurable terms. What does "demand" mean? What does "supply" mean? If it means anything other than "recharge" please quantify your response in objective, measurable terms. What does "a prolonged period" mean? Who defined this term? Please define in objective, measurable terms. Because this "management objective" is critical to the GPU5 and the EIR analysis, clear and reviewable definitions are essential. As it is, the EIR analysis relies upon this objective without explanation of its meaning or a definition of key terms. Because the meaning is unexplained and undefined, the EIR analysis is subjective, and the EIR fails to meet the informational mandate of CEQA. 66

Was the following objective considered:

For management purposes, the short-term and long-term objectives are to ensure that these two variables are held in equal balance, and that pumping of an aquifer does not ever exceed safe yield, defined as objectively measurable recharge to that aquifer.

If not, why not? That is a much more reasonable objective, with fewer impacts. What are the impacts of choosing this objective (immediately above) over the one cited in the DEIR? Where does the DEIR analyze the impacts of choosing the objective in the DEIR? Please describe in full.

Does Marina Coast Water District have authority over water resources or water management issues? Please be specific. The DEIR places MCWD in the discussion of "Agencies that manage water resources" but then describes it solely as a water supplier (p. 4.3-29). Please explain. There are hundreds of water suppliers in the County, but those are different from water resource managers. Does MCWD regulate private and public water suppliers? 67

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 23

Please identify and map the "imported surface water supplies" that are a source of water for the County. Please be specific. This is new information, but there is no supporting citation or reference. Other County documents state that no water is imported into the County. Please address this inconsistency. | 68

The DEIR reference to Exhibit 4.3.7 for its claim that "several smaller groundwater basins" is inaccurate, because the exhibit shows only the north county subbasins, and does not show others such as the Seaside or El Toro Creek watersheds, although the DEIR specifically mentioned them earlier. Please correct and explain. | 69

The discussion at page 4.3-30 regarding the 1982 General Plan goals, policies and objectives sounds eerily like the meaningless and ineffective platitudes and placebos presented in the 2007 General Plan and the proposed mitigations in this DEIR. The County did not get it right in the 1982 plan, and there is nothing that inspires any confidence that the 2007 Plan (and this weak DEIR) will be any better. Please explain why the public should once again place its confidence when it is not deserved. | 70

Please quantify exactly what "progress has been made by MCWRA, MPWMD, and PVWMA in halting the rate of groundwater level decline and seawater intrusion." (P. 4.3-30.) The progress has been mostly on paper, and very little in reality. Please focus your response in quantifying actual on-the-ground verifiable results in the water supply. | 71

The DEIR statement that "these issues remain a significant challenge to sustainable growth based on the goal of a sustainable groundwater supply" (p. 4.3-30) is a huge understatement. Please explain whether you use the term "sustainable growth" as distinct from "sustainable groundwater supply." | 72

Why are the water suppliers for the five Community Areas given special attention in Table 4.3-4? Please explain why those areas are called out. | 73

As to Table 4.3-4, how much of the Fort Ord Area will be supplied from Seaside and how much from Corral de Tierra? Please address whether the Seaside Basin adjudication affected the reliance on this future supply, and if so, how. | 74

The reference to MPWMD appears to be incorrectly stated. Also, please explain how the Fort Ord Reuse Authority is a management authority when it is not listed in the DEIR's preceding list of County water resource managers. | 75

The DEIR implies that the MCWD's desalination plant is operating. Please clarify the status and the current production, and a description of challenges and obstacles. | 76

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 24

The DEIR's claim at page 4.3-32 that one new AHO (Reservation Road/Hwy 68) will be established in the Salinas Valley watershed is inconsistent with its claim elsewhere that the Seaside Basin is in the Salinas Valley watershed. In which basin is the Monterey Airport AHO located? | 77

The DEIR's affirmative claims about the Toro watershed are inconsistent with MCWRA documents that should show a large amount of scientific uncertainty around the relationship of the Toro watershed to the Salinas Valley basin. Please investigate and address, and explain how it affects your analysis. Please disclose your investigative efforts and steps. | 78

Does the Deep Zone start at 2,000 feet below land surface? The DEIR states the location ambiguously at page 4.3-32. | 79

At the time of your response, is the 2005 extraction data the most recent available for the Salinas Valley? The EIR preparer has a duty to seek out and investigate and disclose the most current data. | 80

As to Table 4.3-5, please correlate extraction data with rainfall, to provide perspective for the variations. | 81

What is the "180-Foot/400-Foot Subarea north of Salinas" (p. 4.3-33)? That is not an accepted or commonly used subarea name. Please explain, and provide a map of its geographic boundary. The SVWP EIR (e.g., Figure 3.2) refers to the areas north of Salinas as "East Side" and south of Salinas as "Pressure." | 82

The DEIR repeatedly incorrectly calls this aquifer "100-Foot/400-Foot" (the third or fourth such error in this chapter is at p. 4.3-38). Please correct the errors. | 83

When did the MCWRP become fully operational? The DEIR omits this important information, which is important to show the reliability of the data. The cited rate of seawater intrusion dates from 2001, and is based on data from before 2001. What is the most current available information about seawater intrusion? Where is it worse, where has it improved? How is the rate measured? Please explain. | 84

Why does the DEIR state that a figure will be used "as a baseline in this SEIR" (p. 4.3-33). Baseline for what? The use of the term baseline, as well as the incorrect reference to SEIR, appears to be another example of plagiarism, when the DEIR preparer lifted another document's language wholesale, without attribution or citation. | 85

The bottom paragraph on page 4.3-33 states:

MCWRA indicates that without the SVWP and the associated development of additional water supplies to | 86

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 25

augment existing groundwater supplies, both existing and future water needs (year 2030 and buildout) would result in further basin overdraft and seawater intrusion. The technical background reports incorporated by reference into the Draft Environmental Impact Report/Environmental Impact Statement for the Salinas Valley Water Project (Monterey County Water Resources Agency 2001a) demonstrate that basin overdraft, if left unchanged, is estimated to produce approximately 10,300 AFY of seawater intrusion and 14,000 AFY of storage depletion in 2030.

The first sentence of this paragraph is misleading because it implies that the MCWRA has developed "associated additional water supplies," which it has not.

The information in the second sentence as to 10,300 AFY is inconsistent with the information in the first paragraph on page 4.3-33 that the annual rate of seawater intrusion in 2001 was 8,900 AFY. Both references cite to MCWRA 2001a. Please identify to which specific "technical background reports" this DEIR refers, including chapter and page citations. At 10,300 AFY, in 2030 is the amount of seawater intrusion 10,300 AFY x 30 years = 309,000 AF? Does that mean 309,000 AF of the Salinas Basin capacity would be lost to seawater? If not, please explain.

Please explain what is meant by "storage depletion" in the last sentence. How does "storage depletion" relate to capacity? How does it relate to availability of potable water? How does it relate to unsustainable pumping (i.e., pumping in excess of natural recharge)?

The DEIR makes the conclusory statement that the project "remains valid" when a 2007 baseline is substituted (page 4.3-34). Please show your calculations to support your conclusion. Further, please show your "2007 baseline" which is not disclosed. Please update all figures in all charts and table to reflect the most current data available.

Table 4.3-6 data is inconsistent with the information on Table 4.3-5. Please explain. For example, Table 4.3-5 shows 1995 pumping (agricultural and urban combined) as 504,512 AF, Table 4.3-6 shows 1995 pumping at 463,000 AF. Please review each figure in the tables for accuracy. What is meant by the figure for "Basin Overdraft does not include Seawater Intrusion"? What does that mean, and how it is calculated? Why is seawater intrusion not included, because it is a direct result of basin overdraft?

What are the specific reasons and assumptions behind MCWRA's projection for a decrease in annual groundwater agricultural pumping to 358,000 by 2030 (p. 4.3-34)?

86

87

88

89

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 26

Please explain in detail the specific reasons and assumptions behind MCWRA's projection for an increase in annual groundwater urban pumping to 85,000 by 2030 (p. 4.3-34)?

Please explain the last sentence on page 4.3-34 about the CSIP providing for injection into the groundwater aquifer. Please direct us to a project description of CSIP in the DEIR that includes injection.

Please explain what is meant by the delivery of "an additional 14,300 AF of SVWP water . . . outside the CSIP" (p. 4.3-35)? What does it mean to refer to SVWP water outside the CSIP? Please provide specific examples, and describe whether there is the storage or holding capacity for 14,300 AF, how and where it would be delivered, and to whom.

While no new planning areas are planned for El Toro Creek basin, is not the Fort Ord/Hwy. 68/Reservation Rd. AHO in the area that would receive water from the El Toro watershed? Is the term "El Toro Creek basin" new? The SVWP EIR referred to the same area as the "Corral de Tierra area". Please explain, and show any differences on a map.

What is the support for the statement that "increase withdrawals in these [overdrafted] areas would result in significant impacts" (p. 4.3-35)? Please be specific in your response, either to policy, law, or CEQA thresholds applicable to Monterey County. Please provide the name of the reference document(s) and page citations.

In some places the DEIR refers to Seaside as subbasin and in others as a basin (as here, p. 4.3-35). Please explain which term is accurate, what the difference is, and correct the incorrect terms and the map (see e.g., Exhibit 4.3.3).

Why is Monterey not included in the list of incorporated cities in which the Seaside Area groundwater basin is located?

What does the last sentence on p. 4.3-35 mean? It states:

However, inter-basin transfers of water that may be needed to meet the demands of the 2007 General Plan in neighboring basins would impact the water supply.

Which water supply? Which interbasin transfers, to be specific? What would the impacts be? If the interbasin transfers may be needed, then the impacts and cumulative effects should be investigated and analyzed now. The Monterey area currently gets water from the Carmel watershed, but that watershed is under a SWRCB Order and a pending CDO. That source does not seem a likely source of water.

89

90

91

92

93

94

95

96

O-21k	
<p>The Open Monterey Project – Comments on Draft EIR for GPU5 February 2, 2009 Page 27</p>	
<p>What is the significance of the "basinwide average annual storage depletion" figure? (P. 4.3-36.) How does that figure relate to the annual recharge, and to sustainable yield?</p>	97
<p>The DEIR should not use misleading terms. The MCWRA projects that are intended to "reverse the long-term trend of seawater intrusion and groundwater declines in the Salinas Basin" really will only decrease the rate of intrusion and decrease the rate of decline – it will not reverse seawater intrusion or reverse the decline. The DEIR repeats this misleading description in multiple places (e.g., p. 4.3-37).</p>	98
<p>As to the CSIP, has the CSIP allowed groundwater levels in the 180/400 foot aquifers to recover? Please provide quantified information as to levels from the 1998 CSIP completion to present day.</p>	99
<p>Please describe what is meant by the statement "reverse the landward groundwater gradient" (p. 4.3-37). The statement is confusing.</p>	100
<p>The statement that "studies have established that the primary solution for controlling seawater intrusion and overdraft in the Salinas Valley is by relieving pumping stresses in the aquifers in the 100-Foot/400-Foot and East Side Subareas" is a platitude. It is obvious that a way to control overdraft of the aquifer is to stop pumping the aquifer. The County went for a solution that involves more infrastructure, rather than better management practices, conservation, uses, reuse, and sustainability, all of which would have "relieved pumping stresses in the aquifers," as well.</p>	101
<p>What is meant by the "SVWP project delivery area" (p. 4.3-37)? It is unclear what this term means. Please be specific, cite the reference pages relied upon, and show the area on a map. Because the EIR analysis relies so heavily on the SVWP, this information should be accurately described.</p>	102
<p>What is meant exactly by the SVWP goal of "providing adequate water supply to meet existing and future (2030) water demand on a sustainable basis"? The goal is not to stop the overpumping. Please define the terms "adequate water supply" and "sustainable basis," as used here. The SVWP effects are small components in a basin that will continue to be overdrafted. What is "adequate" or "sustainable" about that?</p>	103
<p>The SVWP does not provide a new supply for new demands. It merely tries to mitigate the results (seawater intrusion, agriculture needs during summer) of the existing overpumping. Please confirm. If you disagree, please provide specific references and pages that support your assertions.</p>	104
<p>Please provide a specific page reference for the DEIR statement that "Changes in the Nacimiento and San Antonio Dam operations under the SVWP will allow for</p>	104

O-21k	
<p>The Open Monterey Project – Comments on Draft EIR for GPU5 February 2, 2009 Page 28</p>	
<p>planned releases to recharge into the Salinas Valley groundwater basin (Monterey County Water Resources Agency 2008a)."</p>	104
<p>What is the reference for the statement that the SVWP is not "sufficient to meet water demand through the year 2030" (p. 4.3-38)? Please provide the page and citation. Water demand now and through 2030 is and will be unsustainable, with or without the SVWP. Why suggest that the SVWP changes that? Please be specific in your response, and provide quantified responses and specific page/citations in support.</p>	105
<p>The DEIR variously claims that the SVWP will "reverse the trend" of seawater intrusion and that the SVWP will "halt seawater intrusion" entirely. In fact, the County documents show that at best seawater intrusion will be slowed by SVWP, with no other components. No other components are planned or funded at this time. Please respond.</p>	106
<p>What is meant by the statement at page 4.3-38 that "With the SVWP, benefits would be distributed more uniformly throughout the Salinas Valley." What benefits, and what does "more uniformly" mean exactly? Please show the claimed benefits on a map, give examples of benefits, and provide specific support for your response. This sentence conflicts with the one preceding it.</p>	107
<p>There is no expanded distribution system or expanded deliveries either planned or funded. See p. 4.3-38. Please address this obstacles. The SVWP cost three times more than planned, even after it was severely cut back due to financial concerns. And the project cost does not include the high costs of the two successful legal challenges to the Prop. 218 funding mechanism.</p>	108
<p>There is strong evidence that there will be organized resistance to further projects due to the cost. Under the County's approach, the coastal water users are paying far more than agricultural users, although agricultural use is the primary cause of seawater intrusion and overdraft.</p>	108
<p>Exactly what would an "expanded distribution system and expanded deliveries" look like? Please explain in detail, including showing on a map and describing from an infrastructure standpoint.</p>	109
<p>The restoration of the low flows in the river during the summer season is to provide water for agricultural use, and because the resource agencies required it as a condition/mitigation for the SVWP. It is questionable whether the reservoirs have sufficient storage and water available for the flows required by the resource agencies over time. Please quantify and respond in detail.</p>	109
<p>It is misleading for the DEIR to claim on page 4.3-38 that</p>	110

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 29

O-21k

The CSIP and SVWP, along with increased urban and agricultural water conservation efforts, are expected to help bring the Salinas River basin into hydrologic balance.

Hydrologic balance means the same amount of extraction as recharge, correct? Each of these four efforts are expected to contribute some small amount to the effort, but as planned to date all four efforts combined will fall far short of the goal: balance. Please respond. If you disagree, please quantify the amount of imbalance, the expected gain to the aquifer of CSIP and SVWP, and the specific urban and agricultural conservation efforts that you claim will result in hydrologic balance. There is no adopted or even firm plan to achieve balance, and no funding for anything beyond what is currently being built.

110

The DEIR should admit that hydrologic balance will take far more work and hard decisions and major funding, which in these times are unlikely to happen soon.

As to the Carmel River Watershed, why is the proposed Special Treatment Area at the mouth of Carmel Valley not mentioned, or the one in Carmel Valley Village? They would place new demand on the overpumped aquifer. The EIR preparer, Jones & Stokes, is familiar with the mouth project because it has already prepared a Draft EIR on the proposed Rancho Canada Village project; that DEIR was rejected by the applicant as inadequate under CEQA.

111

Cal Am does not "provide water to the MPWMD" as the DEIR claims (p. 4.3-38).

112

What is the AF storage in the Carmel River alluvial aquifer? The DEIR describes it as "small" without quantifying it. What is the safe yield of the aquifer?

113

As to the Coastal Water Project (p. 4.3-40), please describe how much of the proposed 11,730 AFY would go to urban users, and how much would be injected into the Seaside basin? Would that injection affect the Seaside basin adjudication, or the available water to users or pumpers?

114

Of the 11,730, how much would go to offset the Order 95-10, and how much would be available for growth (new development), and would that growth be in the cities or in the County (and therefore subject to the proposed general plan)? Please quantify your responses.

The DEIR is incorrect in its description of the North County planning area. That area includes two North County subbasins that are not part of the east side subarea (Highlands South, Granite Ridge). As you can tell from the names (ridge, highlands), the land is of higher elevation and not part of an alluvial aquifer, like the Salinas basin. The ridge and highlands have water supplies that are upland aquifers. Those upland aquifers in turn shed water to lower levels, such as the Salinas Valley aquifer.

115

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 30

Highlands South and Granite Ridge do not get their groundwater from the Salinas Basin or the Salinas River. They will not benefit from the SVWP.

The MCWRA has repeatedly represented that the SVWP will benefit the North County area because the SVWP will presumably increase the Salinas Valley aquifer, which means that less water will run off the uplands aquifers into the Salinas Valley aquifer. Please investigate these statements, which are not supported by technical data. What is the height of the North County aquifers relative to the Salinas Valley Aquifer? Where are the boundaries between the aquifers, and how are those boundaries determined? How many feet higher would the Salinas Valley Aquifer have to rise up in order to affect the runoff from the North County aquifers? When, if ever, will that happen as a result of the SVWP that is underway, and how would that be objectively determined? In your response, please do not rely on conclusory statements. Please support your response with specific references to technical reports and data.

115

The DEIR should not lift its information from a 2004 draft EIR that was never adopted (p. 4.3-41). The information it repeats from that document is outdated: "Normeo" does not exist any more in North County; other large systems do.

116

How many of the 40% of parcels in North County are served by private wells? How many are undeveloped? This information is important because of the proposed policies in the GPU5 for North County.

117

What does the DEIR mean by the claim that North County has "relatively low precipitation compares to some of the highland areas"? Please be specific, and provide examples of ranges of precipitation in different areas.

118

The information at the bottom of page 4.3-41 and all of page 4.3-42 is very out of date. PVMMA is not exploring importation from the Central Valley Project, which, by the way, has no water to spare. PVMMA is exploring bankruptcy instead.

119

What is the current status of the Phase 1 and Phase 2 of the pipeline from the Watsonville Area Water Recycling project? What is the water delivery rate for each region? According to the DEIR, Phase 2 was to be completed 8 months ago.

120

Why is the discussion on Pajaro Sunny Mesa CSD placed under Pajaro, and not North County in general?

121

What is meant by the category "other North County"? Is this supposed to mean the subareas in Monterey County that are not in the Pajaro watershed? The first paragraph indicates that is the intention. But the second paragraph goes astray by discussing the Rancho Roberto subdivision, which is located in the Pajaro watershed. Does the FEIR address all of North County recharge column, or specific subareas, or one or both of the watersheds? The inclusion of this information is confusing and

122

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 31

misleading. There is no page citation to the FEIR as required under CEQA, so it is very difficult for the public to determine this information on its own. Further, the huge cited range of recharge volume – from 5500 AFY to 9275 AFY -- and questionable in its usefulness to this DEIR, especially without knowing the boundaries involved. Please explain and rewrite. 122

What is meant by the last sentence on page 4.3-43 – is it that the 1982 Plan would exceed the amount of development allowed by the proposed GPU5? The word "overstate" is unclear. 123

As to Table 4.3-7 on page 4.3-44, what are the most current figures available? 124

The DEIR fails to mention the current and ongoing County moratorium on development in the Carmel Highlands due to water quality concerns. 125

Is the definition of "safe yield" on page 4.3-45 the same as, consistent with, or inconsistent with "sustainable yield"? The provided definition -- "the annual draft of water that can be withdrawn without producing some undesirable result" -- is decidedly subjective, and is not a workable standard under CEQA. From where did this definition come? Please be specific, and provide page citations. Who decides what is "undesirable," or when it becomes undesirable? Safe yield is typically defined as consistent with sustainable yield. Please discuss and respond. Note the Seaside Basin adjudication use and application of "safe yield." 126

Please define "water budget" as used here. 127

As to 4.3.2.5 Carmel River Conflicts, Cal Am did not file an adjudication action in response to the SWRCB order. It filed it as a pre-emptive strike against the MPWMD, which was attempting to facilitate a cooperative approach by all pumpers to alleviate the overpumping of the Seaside Basin, which the MPWMD had identified as a concern in the early 2000s. 128

As to page 4.3-83, Alco's authority over water has changed in recent years due to its bankruptcy filing and other issues. Please confirm whether the DEIR statement is still accurate. 129

The discussion on 4.3-48 and 4.3-88 appears to have been copied wholesale from another document. The mere recitation of facts does not provide perspective or guidance, and the purpose or use of these 40 pages is not clear. Please explain. 130

It would have been far more helpful if the DEIR had spent only 10 pages doing a side-by-side comparison of the water resource policies of the 1982 General Plan and the proposed GPU5. As it is, the reader is left wondering why the extensive discussion 131

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 32

of current County ordinances, which can be changed if they are inconsistent with the new Plan. 131

As to each of the County ordinances and regulations cited on these 40 pages, please explain whether it is consistent with or inconsistent with the GPU5 policies or goals, and if so, how. Will the 1982 grading policies change under the GPU5, and if so, how? Will Chapter 15, or 16 or Chapter 19 have to be amended to reflect GPU5 policies? Will Chapter 20 or Chapter 21 have to be amended? If so, how and why? For each code section, please show the current language, as well as the likely post-GPU5 language, and identify the GPU5 policies and goals (by number and page) that apply to the topic. 132

Also identify the proposed mitigations that would apply to that topic. 133

4.3.4 Project Impacts

Who determined that these criteria would be used for determining the significance of impacts to water resources? The Board of Supervisors has not adopted these standards, we believe. What other criteria were considered? In recent and pending EIRs, the County has used various different criteria for determining the significance of impacts related to water resources. Why are the County EIR standards not constant? What are the impacts of customizing different thresholds on a per-project basis, instead of a County-wide standard? Please address in general, and specifically as to water resources, if your response is different for that. Given the serious condition of our County's water supplies, and the significant unavoidable impacts of this project on water, the standards used to evaluate the impacts are critical, and shape the analysis. 134

4.3.4.2 Impact Analysis

Why does the discussion of water quality degradation ignore the impacts of special treatment areas? (See, e.g., third paragraph of 4.3-91.) The development of those areas is foreseeable, and in at least one instance known first-hand by the EIR preparer (Jones & Stokes prepared the Draft EIR for the subdivision proposed for the STA at the mouth of Carmel Valley.) 135

The discussion of water quality degradation inadequately addresses the impacts of groundwater quality on habitats and special status species. The same problem recurs elsewhere in the DEIR discussion of water quality issues. 136

It appears that the Impact WR-1 does not include agricultural uses. The impact lists only "residential, commercial, industrial, and public uses." If it had included agriculture it would have simply said "uses" without describing them. Agricultural impacts appear to not be included due to the header stating "urban runoff." We cannot 137

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 33

find where the DEIR analyzed the water quality impacts from agricultural runoff, which is a critical analysis. Given the magnitude of agricultural development in this County, and the increases in agricultural development that would be authorized by the proposed GPU5 (including steep slopes, and Routine and Ongoing practices), this is a critical impact and issue that should be quantified and discussed. Please state where that analysis can be found. The lack of a table of contents for each chapter makes it impossible to find where that section might be. This Water Resources chapter is over 200 pages long, including figures, and poorly organized.

137

At the bottom of page 3.3-91 and the top of page 4.3-92, the DEIR makes an unsupported conclusion about coastal development. The DEIR fails to describe the areas it is describing or quantify the amount of development. Which are "the majority of coastal streams" that "would experience relatively less adverse changes"? Please list them. What is "relatively less adverse changes" mean? "Less adverse" than what, and by what measurements and assumptions? What is defined as a "coastal stream" a category that would seem to include Pajaro? Which coastal streams (presumably, the minority, according to the DEIR) would have impacts, what impacts are they, and how are those impacts quantified? How can the DEIR make conclusions about "coastal communities" and "coastal streams" without identifying them, and why does the DEIR address land in the coastal zone?

138

Please identify exactly which "surface water features" in the Salinas Valley "may experience continued loading of pollutants from urban runoff" (p. 4.3-92)? Which water features would experience *additional* loading, which is the issue, not continued loading? Please quantify the amount of loading in each case. What are the impacts of that additional loading, as well as the cumulative effects on top of the existing loading.

139

The DEIR evaluation of the proposed GPU5 policies is superficial and disingenuous. The majority of the plan policies have no accountability, no metrics, no performance standards, no enforcement teeth, no timeline, no deadline, and no consequences for failure to complete. (E.g., support existing programs, establish criteria for hydrology studies to evaluate issue, encourage the voluntary preparation of a plan, develop a program, cooperate with federal, state and local agencies, "may include inventive programs that encourage owners to voluntarily" take action.) Given these flaws, the DEIR cannot assume, as it does, that the policies will be effective.

140

The DEIR also fails to explore the weaknesses of the plan policies, or to acknowledge that the success is uncertain and doubtful, if not outright unlikely. For example, the DEIR merely recites GS-1.8, without investigating or analyzing the effectiveness of the policy. For example, the policy does not include residential uses, and the phrase "if feasible" is not defined, which means that it will not ever get done unless it is purely voluntary. The DEIR analysis of GS-1.8 is similarly flawed.

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 34

The DEIR analyses of several proposed policies fails to explore the implications of the policies' use of the term "should" which is generally considered not mandatory. Because "should" is permissive, the DEIR's use of the term "mandatory" to describe the policy is misleading to the public. See, e.g., GS 3.1 at p. 4.3-95. In another example, where the proposed policy uses the word "should", the DEIR incorrectly claims that the policy "prohibits" the action. See, e.g., CV-2.9 at 4.3-96. Please review each policy and correct the DEIR analyses, and identify each time in the DEIR when a policy is not mandatory.

140

To compound these errors, the DEIR fails to quantify the amount of potential impacts to water quality. The DEIR then makes the unsupported conclusion that the impacts would be less than significant. However, because the DEIR failed to quantify the impacts – which it acknowledged would "substantially degrad[e] water quality" (on page 4.3-90) – and failed to investigate or discuss the effectiveness of the plan's policies that might mitigate those impacts, then the conclusion is not merited. Please investigate and revise.

141

As to Mitigation Measure BIO-2.1, is there a current setback requirement? Why does the DEIR assume, without support, that the proposed Stream Setback Ordinance will have greater setbacks than currently exist? There is no such guarantee. The assumption that the new Ordinance will be beneficial would be valid only if the new setbacks will be (1) mandatory, (2) not waivable or adjustable by a variance, and (3) guaranteed to be larger than the current minimum setbacks. Please modify the mitigation measure to include these three elements.

142

Please explain what is meant by the proposed Stream Setback Ordinance to apply only to discretionary development and only to some conversion of previously uncultivated agricultural land. Why should it not apply to all development? What are the impacts of limiting its application? Please compare that to the current requirements for stream setback, and discuss what kind and how much development could take place without complying with the proposed ordinance. Please modify the mitigation measure to state that it shall apply to all development.

As a general comment, the DEIR does not appear to include or analyze the issue that the vast majority of the GPU5 policies do not have deadlines or timelines, and there is no guarantee that any of them would be implemented by any certain date. The DEIR fails to address the very real possibility that the pro-development GPU5 policies may go into effect long before any or all of the environmental protection policies are partially or fully implemented. There is no requirement that the environmental protection policies be executed or implemented or funded prior to 2030.

143

The DEIR should consider a mitigation that requires all GPU5 policies, maps, GIS programs, studies and similar implementation to be fully funded, both for administration and enforcement.

144

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 35

The DEIR should consider a related mitigation that requires all GPU5 policies, maps, GIS programs, studies and similar implementation steps contain deadlines or timelines, with strict limitations on development before those policies are fully implemented or executed. 144

Please investigate, discuss, and disclose all assumptions or metrics. The DEIR should consider a mitigation that requires completion, execution, and implementation of all environmental protection policies prior to any development being approved under the proposed Plan. 144

Where is the support for the repeated DEIR statement that "the policies of the 2007 General Plan would be fully implemented by 2092"? Please be specific, and provide citations to page numbers. 145

Impact WR-2 ("water quality in downstream waterways") uses different language from WR-1 ("downstream surface waters"). What is the difference between "downstream waterways" and "downstream surface waters"? Why does the DEIR not explain the difference? If there is no difference, the DEIR should use consistent terms. 146

Impact WR-2 includes agriculture-related uses (p. 4.3-99) even though agriculture is not included in Impact WR-1. Please explain. 147

Please describe with specificity to what "existing County development regulations" the DEIR refers (p. 4.3-99). If those regulations are anything other than the 1982 General Plan, please explain why they are being mentioned here, because the new GPU5 will control in the future, and County ordinances and rules will adjust to the new General Plan. 147

In the previous reference the DEIR may mean Chapter 16.12, which is part of the County Code, which will have to be amended to reflect the new General Plan policies. Therefore, it cannot be relied upon here to mitigate any GPU5 policies. Therefore, the DEIR inappropriately relies on the Code to reduce impacts of plan policies (e.g., p. 4.3-100, "impacts resulting from . . . The 2007 General Plan would be reduced by compliance with the existing County grading and erosion control requirements"). Please explain and correct. 148

As a comment on the entire DEIR in general, and on the Water Resource chapter in particular, the DEIR identifies impacts in general, non-quantified terms lacking support, then lists the GPU5 policies, and then makes a conclusion. As a general rule, there is no description of the specific conditions, no analysis of the impacts of the policies, and no independent measurements or standards to support the DEIR conclusion that there will not be significant impacts. Please correct each of these errors. There are too many examples to list here; we provide one below. 149

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 36

As an example (and there are many), look to the DEIR Water Resources chapter discussion of Impact WR-2, Construction-Related Soil Erosion and Sedimentation "substantially degrading water quality in downstream waterways." (P. 4.3-99.) The discussion lists "impact of development with policies" in vague and general terms; then recites, almost verbatim, proposed policies from the GPU5, Area Plan, and Community Areas (none of which have any timelines for completion); then makes a "significance determination" that asserts that "existing County, state and federal requirements, proposed policies of the 2007 General Plan" and other public programs

would substantially reduce the extent of erosion and sedimentation from most construction activities on gentle slopes and where an erosion control plan is required. Additionally, establishment of permits for development on steeper slopes, including an agricultural conversion permit process, in part to identify development and design techniques for erosion control and slope stabilization, would further reduce potential erosion and sedimentation impacts from 2007 General Plan implementation. 149

(P. 4.3-105.) However, the DEIR never analyzes how, or to what extent, or by what measurement, the requirements "would substantially reduce" the impacts. Remarkably, the DEIR interprets, also without support or analysis, "the establishment of permits for development on steeper slopes "to have only a single effect: "further reduce potential erosion and sedimentation impacts from 2007 General Plan implementation." By not analyzing the policy (OS-3.5) and by misinterpreting it, the DEIR misses the point: policy OS-3.5 is a major change in policy from the 1982 General Plan; OS-3.5 would allow a huge amount of new development where it is not currently allowed (and has not ever been); and has significant unavoidable impacts.

There are many problems with this approach, which does not comply with CEQA. The DEIR does not investigate, quantify, or locate the amount of slopes that would be newly allowed to be developed under this new policy OS-3.5. The DEIR does not present this information in a map format, or try to figure out how many tens of thousands of acres would be affected. The DEIR fails to look critically at the broad language that would allow an exception to the purported prohibition on 30%+ slope development – that exception may be granted merely upon substantial evidence. The DEIR fails to explain what "substantial evidence" means, which is key to understanding the issues. The DEIR fails to recognize that the policy does not require the reduction in the size of a development in order to remove the development from the 30%+ slope. The DEIR fails to address the problem that the policy is internally inconsistent, applying by its own language both to slopes of "30% and greater" and of "greater than 30%". The DEIR fails to investigate and disclose how much land might be eligible for the Agricultural Permit process which would exempt conversion of land for agricultural purposes of previously uncultivated land in excess of 25%, or what the impacts would

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 37

O-21k

be of allowing this conversion on a ministerial basis. The DEIR does not even attempt to define or investigate what criteria would or should be used to establish such ministerial permits. The DEIR fails to investigate or disclose the impacts of exempting all Routine and Ongoing Agricultural Activities from the lax permit requirements of OS-3.5.

149

Despite its failure to investigate all of these issues, the DEIR, without analysis and without any reliable quantification, concludes that this policy "would further reduce potential erosion and sedimentation impacts from 2007 General Plan implementation." (Page 4.3-105.) This superficial approach does not comply with CEQA. As this example shows, and as other examples throughout the DEIR confirm, the entire DEIR falls as an informational document. It should be rewritten and reissued.

As is typical of many of these examples in the DEIR, the DEIR section on water quality impacts then addresses "mitigation measures" by stating "no mitigation is required" because the GPU5 Plan policies and Area Plan policies and goals would reduce impacts to a less-than-significant level (p. 4.3-106). It then states its "significance conclusion" of less than significant. Not once does the DEIR refer back to the significance threshold or criteria, or look critically at the overall cumulative impacts.

150

Why is agricultural and resource development (p. 4.3-107) placed under the section of "Construction-Related Soil Erosion and Sedimentation"? Please define "agricultural and resource development" (Impact WR-3) as compared to "land uses and development" (Impact WR-2). From the limited information provided, the categories appear to overlap.

151

In order to reduce contaminants in runoff, the DEIR should consider a mitigation of prohibiting the use of agrochemicals by commercial agricultural operations. (See pp. 4.3-107 and -108.) As an alternative mitigation, the DEIR should consider amortizing the use of agrochemicals over time, with a mandatory reduction over a set time frame, resulting in zero use by a specific date before 2030.

Please explain the DEIR statement that "Future vineyard plantings . . . may be an indirect result of the AWCP" (p. 4.3-108). Please explain the causation, and the investigation into any estimates of such future plantings. Please investigate and disclose the kinds of impacts that may result from this cumulative impact and from the encouragement and support provided by the AWCP for such future action.

152

Please provide the references (including section and page) for the claim (at p. 4.3-107) that

153

Very few agricultural land uses require discretionary or ministerial permits from the County.

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 38

O-21k

On page 4.3-108, this statement appears:

2007 General Plan Policies

The County does not regulate agricultural cultivation in most areas; currently, uncultivated land conversion is regulated only in the Elkhorn Slough (North County coastal) area. However, new cultivation on slopes greater than 30% is subject to a grading permit with associated conditions, such as development and implementation of erosion control plans. The County also relies on the educational outreach programs of other agencies

153

Are these 2007 General Plan policies, as claimed? There is no citation to the Plan. If so, exactly where are they to be found? The statements sound more like current policies and plans, not the proposed plan.

The DEIR review of Impact WR-3 follows the same superficial pattern described above for Impact WR-2. After an inadequate summary of impacts (pp. 4.3-107 to 4.3-108), without describing the quantity, extent, location, or nature of specific impacts, the DEIR lists GPU5 policies that it thinks applies, then Area Plan policies that "also support water quality protection" and state and federal regulations (pp. 4.3-108 to 4.3-111), none of which are adequately addresses. The DEIR then makes the conclusory and unsupported statement that the "overall impacts will be less than significant with implementation of 2007 General Plan policies" and "no mitigation is required." (P. 4.3-112.)

The DEIR is wrong: the proposed GPU5 policies will have significant unmitigated effects on water quality. Again, the DEIR makes the fatal error of assuming that all environmental protection policies will be fully implemented and binding before any development under the GPU5 takes place. It also incorrectly assumes that all policies and programs will be fully funded, both for administration and enforcement.

154

Further, the DEIR also makes the fatal error of assuming that "Goal AG-3 and its policies" support water quality protection (see the subsequent discussion at p. 4.3-109, stating that certain Area Plan policies "also support water quality protection"), when in reality they will harm the environment with significant and severe impacts because they are pro-development, and because they limit and restrict the County's authority in the future to protect the environment.

"Goal AG-3 and its policies" include:

GOAL AG-3: ASSURE THAT THE COUNTY'S LAND USE POLICIES DO NOT INAPPROPRIATELY LIMIT OR

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 39

O-21k

CONSTRAIN "ROUTINE AND ONGOING AGRICULTURAL ACTIVITIES"

Policies

AG-3.1 "Routine and Ongoing Agricultural Activities" shall be allowed pursuant to the policies in this plan. Activities that may have significant impacts are subject to a greater level of review.

AG-3.2 In order to encourage the continuation and economic viability of the agricultural industry, the County shall work with the agricultural industry and state and federal agencies to streamline permit procedures for "Routine and Ongoing Agricultural Activities" as enumerated in policy.

AG-3.3 In lands with a Farmlands, Permanent Grazing, or Rural Grazing land use designation, farming and ranching activities that are "Routine and Ongoing Agricultural Activities" should be exempted from the General Plan policies listed below to the extent specified in those policies except for activities that create significant soil erosion impacts or violate adopted water quality standards. The County shall, after consultation with the Agricultural Commissioner and with appropriate review by the Agricultural Advisory Committee, establish by ordinance a list of "Routine and Ongoing Agricultural Activities" that can, in harmony with General Plan goals and in accordance with State and Federal law, be exempted from the listed General Plan policies as described. Activities to be considered for inclusion in the list of "Routine and Ongoing Agricultural Activities" may include, but are not limited to:

- a. pasture and rangeland management;
- b. conversion of agricultural land to other agricultural uses;
- c. preparation of product for market, and delivery of product to market;
- d. planting, harvesting, cultivation, tillage, selection, rotation, irrigation, fallowing, and all soil preparation activities;
- e. raising of livestock, poultry, fur bearing animals, dairying, or fish;
- f. maintenance of sediment basins, stock ponds, irrigation and tail water return systems, stream bank and grade stabilization, water retention and pumping facilities, erosion control and surface drainage activities;

154

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 40

O-21k

- g. maintenance of farm access roads, trails, and parking facilities;
 - h. fencing, corrals, animal handling facilities;
 - i. greenhouses, sheds, storage and outbuildings;
 - j. Emergency activity that protects the health and safety of the general public.
- "Routine and Ongoing Agricultural Activities" are exempt from the following General Plan policies to the extent specified by those policies: C-5.3 (Scenic Highway Corridors), C-5.4 (Scenic Highway Corridors), OS-1.9 (views), OS-1.12 (scenic routes), OS-3.5 (slope), OS-3.6 (erosive soils), OS-5.4 (native vegetation), OS-6.3 (archaeological), OS-7.3 (paleontological), OS-8.3 (burial sites), OS-10.8 (air quality), S-2.3 (floodplain). Further modifications may be made in Area Plans as part of this process. . . .

These policies will have many impacts, none of which are adequately analyzed in the DEIR. If these activities are to be exempt from the specified policies, the DEIR should carefully research and disclose the potential environmental impacts now. There are many questions and issues. For example, as to Goal AG-3, there is no definition of the terms "inappropriately limit or constrain." It is the County's discretionary authority that is at issue, and that authority should not be forfeited, which the goal requires. Who will create the standards by which the County's action will be measured for violation of this policy?

As to Policy AG-3.1, the routine and ongoing agricultural activities are mandated to be allowed. The DEIR fails to investigate the impacts of that mandatory act, which is a prohibition – or at minimum a limitation – on the County's police powers. There are innumerable possible actions by the County that would violate this policy. For example, if the County limited or placed conditions on a routine and ongoing agricultural activity, in order to protect the environment, would it be violating the policy? In apparent internal contradiction, the second sentence of Policy AG-3.1 indicates that some activities "may have" a greater level of review. But there are no policy statements as to who would determine whether an activity "may have significant impacts," or when that determination would take place, or what "greater level of review" would be permissible.

Further, the EIR analysis of Policy AG-3.1 is fatally flawed because there is no project level CEQA review at this stage, and because there are no limits to the impacts that the authorized uses may have, once exempted. There are no standards to measure the impacts, or to remediate environmental harm caused by such uses. There are no limits to the impacts of these uses on an individual or cumulative basis. If multiple CAFOs (Concentrated/Confined Animal Feeding Operations) are developed, as

154

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 41

O-21k

the policy would allow, there could be significant impacts, but no accountability under County ordinances or under CEQA. Please address.

As to Policy AG-3.3, who will determine which "activities that create significant soil erosion impacts or violate adopted water quality standards," how will that determination be made, at what stage in the process, and how will the public know about it in order to challenge the decision? What CEQA review would there be of individual "routine and ongoing agricultural activities"?

154

The discussion of water quality impacts also fails to address the cumulative impacts of the policies. Where the development increases over time, and the water quality decreases, a new use may have a more harmful effect than an earlier use of the same nature. Policy AG-3.1 fails to consider the possibility that a project have individually less than significant impacts but cumulatively significant impacts.

Potable Water Supply (p. 4.3-113)

Impact WR-4

Please explain how GPU5 policy measures are designed to maintain a long-term, sustainable supply" (p. 4.3-114). Please define "long-term" and "sustainable supply." The terminology used is critically important, because the public and decision makers need to have a shared understanding of what the terms mean. The DEIR uses terms inconsistently, which makes it impossible to rely on as an informational document.

Please explain whether the development and population growth discussed in this section include the coastal zone, and if not, why not. That development and growth should be quantified and included in the cumulative impact analysis, because it is foreseeable and expected.

155

The DEIR states that "Sustainable water supply requires a comprehensive water budget . . ." Please explain what this sentence means. Please define in detail "comprehensive water budget" and give examples, using numbers, of such a budget as used in Monterey County. Does the County have an adopted "comprehensive water budget" now? Does any water supplier or agency in the County? If so, please identify it by name and date, so the public can review them.

The DEIR states that a sustainable water supply requires "planning and management contingencies, in the event that water supplies are interrupted from natural or manmade emergencies." Please explain how "increased demand from progressive development outpacing supply" is considered an "emergency water supply shortage." Where progressive development outpaces supply, that does not seem to be an "emergency" but instead a failure to plan effectively. For good managers,

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 42

O-21k

development should not ever outpace supply. Such development should not be allowed or approved in the first instance. Sadly, that is the "emergency" situation that much of Monterey County finds itself now, largely due to the County's failure to plan effectively. The proposed plan, and the DEIR analysis, continue that pattern.

155

Does the 27% increase in population include the coastal zone?

156

What research and investigation did the EIR preparer do to determine whether the 181 gpd Central Coast average in the year 2000 (p. 4.3-114) is accurate in 2009 for the areas of Monterey County that are subject to growth? Given the circumstances of our tourist economy and large transient population not included in the per capita totals, along with other factors, this figure does not seem accurate. Did the EIR preparer consult with water suppliers and districts in the County to determine actual County averages? If so, with whom did you consult, and what data did you receive, and why was it not included in the analysis? There is a lot of County-specific information on water demand that was not considered by the EIR preparer. The 181 gpd figure is inconsistent with water estimates for adopted and currently pending EIRs for North County, South County, Highway 68 corridor, greater Salinas Valley, and the unincorporated Monterey Peninsula including Carmel Valley. The EIR preparer should research these issues and revise its water estimates based on current information. For example, the Pasadera EIR made residential demand estimates that were too low, as shown by actual consumption figures. As another example, a pending EIR for North County uses an estimate of 0.8 AFY for lots of between 1 and 10 acres, and the water expert was only willing to use that 0.8 AFY estimate if the lots are deed-restricted to not exceed that amount. As another example, the EIR estimate for the September Ranch project residential lots was rejected by the court as too low.

157

Also, the 181 gpd figure does not adequately account for commercial, industrial, and agricultural demand. The EIR should adequately research and disclose water demand estimates for all development that would be allowed under the proposed GPU5.

The DEIR assumption that there will be "no net expansion in overall agricultural acreage" (p. 4.3-114) cannot stand. What investigation and research did the EIR preparer do to correlate agricultural employment with agricultural acreage? Did the EIR preparer research the extent to which technological improvements, or the changing labor market, or other factors, affected the agricultural employment figures? Please describe your research and disclose your data.

158

Further, this "no net expansion" assumption is inconsistent with the statements elsewhere in the DEIR that the policies in the GPU5 will encourage the expansion of agriculture (see, e.g., steep slope agricultural conversion policies, routine and ongoing agricultural exemptions, and more). Despite its inconsistent assertions, the DEIR fails

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 43

O-21k

to investigate or quantify either the expected conversions of agricultural land to other development, or the expected expansion of agricultural land due to GPU5 policies.

158

Table 4.3-9 (p. 4.3-115)

This table is filled with errors and is unreliable. It is also very difficult, if not impossible, to understand the data, for a combination of reasons.

- A. The notes are not numbered.
- B. The formatting makes it difficult to read and compare the numbers (in a table, the numbers should all be right justified so they line up).
- C. The subtotals are not indicated clearly. They should be set apart, underlined, or similar.
- D. What is the "persons/housing unit - AMBAG 2030 average" figure? Where that information can be found in the references, including page numbers? That information should be in the table.
- E. What is the "person/housing unit average from 2007 GP estimates" figure? Where that information can be found in the references, including page numbers? That information should be in the table.
- F. See previous comment about the 181 gpd average, which is not an accurate measure. Because these figures are broken down by subarea, community area, rural centers, AHOs, and water managers, the EIR preparer should obtain from water managers more accurate averages for more accurate projections.
- G. Why are these inland totals only, as implied by the "INLAND AREA TOTAL" on p. 4.3-118? The coastal zone has existing population and development that uses water, and should be included. The coastal zone also will have foreseeable additional growth, based on the expected and planned amendments to the LCPs to reflect the new GPU5 policies. The table should be revised to include this information.
- H. The table assign the Hwy 68/Airport AHO to the Seaside Aquifer, where elsewhere the DEIR calls the Seaside basin a subset of the Salinas Valley aquifer. Please clarify and make the DEIR internally consistent.
- I. The AWCP projection is grossly understated. It fails to include the water required for all the other uses allowed in the AWCP (visitor serving, hotels, special events, residential, commercial, etc.) or for the AWCP-

159

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 44

O-21k

caused indirect result of more vineyards, which have significant water demand. (Also see comments elsewhere in this letter on this topic.)

- J. The last four rows appears to be subtotals by water manager. These rows omit the North County subbasins that do not obtain water from the Salinas Valley aquifer. Each of these subbasins are already in severe overdraft. The pumping levels are not now sustainable, and have not been for many years. The long-term harm to the subbasins has not been quantified.
- K. The assumptions regarding persons/housing unit should be investigated for analysis of whether the assumptions make sense for the five proposed community areas, rural centers, and AHOs. Available data shows that the average in some of those areas is higher than the average County-wide figures apparently used.
- L. The calculations to arrive at the "outside of CA, RA, AHOs" totals are not provided. Please provide those figures and calculations, as well as all assumptions, including, for example, assumptions regarding number of lots, lot sizes, and persons/housing unit. To the extent that the EIR preparer considered the differences between the basins and subbasins, and/or used different figures or calculations for different basins and subbasins, please present those with an explanation. If the EIR preparer did not consider differences, please explain why not, given the available data showing significant differences.
- M. The table does not include significant additional water demand that would be caused by development consistent with the proposed GPU5. For example, the new policies allowing development of steep slopes would result in conversion of non-irrigated land to vineyards, which have significant water demand requirements. This additional demand (from vineyards and other development consistent with GPU5 policies) should be investigated and quantified. Please disclose all your steps to investigate, and please disclose all assumptions made in your analysis.

159

Table 4.3-9 should be revised. Further, it is only part of the analysis. The DEIR ignores the cumulative impacts of the proposed project. The DEIR fails to include a table that shows projected demand in addition to existing demand in each basin and subbasin.

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 45

DEIR Claims regarding SVWP being a "Water Supply Project"

160

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 46

The repeated statements about the SVWP being a water supply project that will ensure sufficient supplies to 2030 are dead wrong. See e.g., 4.3 Water Resources pages 35, 37, 38, 118, 120, 127, 130, 148, 154, and 158.

An objective of the SVWP was to provide water for growth, but there is no proof that the SVWP will actually provide that supply, if ever. If you disagree, please be specific in your response, and provide specific citations to references, including chapter and page.

The Salinas Valley groundwater basin has been overpumped since at least the 1950s. The overpumping has harmed the aquifer in numerous ways. Until the basin is balanced – i.e., until the pumping does not exceed the recharge that reaches the aquifer – there should be no new development allowed. The SVWP will not bring the basin into balance – even if the SVWP has all the benefits it is projected to have, which is highly uncertain and unproven, the Salinas River basin will continue to be overpumped by the tens of thousands of acre feet every year. The DEIR fails to investigate or assess this important issue.

All DEIR claims that the SVWP will reduce impacts of increased demand cannot stand because the SVWP is not operational, and the County has repeatedly stated that the SVWP results cannot be obtained, if at all, until all components are fully operable. As of now, the components are not built, operable, or fully funded. Even once built, the amount of water recharged to the aquifer will not be verifiable or accountable. And such recharge is not new supply, in any event. As to the CSIP, the benefits of that project are that the coastal agricultural users would not further pump from the coastal zone. The CSIP (the rubber dam component of the SVWP) does not affect the quantity of inland pumping, or the overall overdraft in the Salinas Valley basin.

Therefore, the SVWP cannot be relied upon to reduce the impacts of the proposed project. If the GPU5 policies are effective immediately upon adoption, and the full implementation of the SVWP lags behind, then the GPU5 will cause short-term impacts that have not been identified or quantified. Those impacts will last at least until the SVWP is fully implemented. And, because the SVWP is not a water supply project, those impacts will last far past the SVWP's implementation.

The SVWP EIR states that the SVWP anticipated future agricultural water demand, but the EIR analyzed that demand at a level significantly lower than the one in this GPU5 DEIR. Further, that projection was an estimate only, and did not take into account drought years and drought cycles.

The problem pervades the DEIR. Please correct each of the DEIR claims regarding the effectiveness of the SVWP, and revise the DEIR analysis.

160

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 47

The DEIR should consider a mitigation that new development cannot be considered by the County until the SVWP is fully operational and its beneficial impacts, if any, to the Salinas Valley aquifer are quantified and verified. 160

DEIR Claims regarding SVWP and Seawater Intrusion

The DEIR repeatedly claims that the SVWP will avoid further lowering of water levels in the aquifer and further seawater intrusion, even with projected growth (see, e.g., DEIR pp. 4.3-118 (Castroville and Boronda discussions), as two examples of the many such claims). Those claims are inconsistent with the SVWP EIR.

The SVWP EIR states "with all components included, the project halts seawater intrusion under current water demand hydrologic conditions, and may not (without additional expansions as explained in the EIR/IS) halt seawater intrusion under 2030 conditions." (SVWP Final EIR, p. 2-107.) This conclusion is repeated several times: "the hydrologic modeling performed to evaluate the SVWP indicates that the proposed project may not fully halt future (2030) seawater intrusion" (*ibid.*); "given the dynamics of the hydrologic system, the uncertainties of whether future demands will equal the projected 2030 demand, and the limitations of modeling, it cannot be known whether or to what extent seawater intrusion would actually occur in 2030" (*ibid.*); "if seawater intrusion continues in the future due to increased groundwater pumping demand in the coastal areas" (*id.*, p. 3-1). The SVWP EIR admits that "modeling indicates seawater intrusion may be 2,200 AFY with surface water deliveries only to the CSIP area" (*id.*, p. 3-23). "Surface water deliveries only to the CSIP area" is what is planned, and no other distribution is planned, adopted or funded. 161

The SVWP admits that according to its model, "[t]he delivery of 9,700 AFY of Salinas River water [via the SVWP rubber dam diversion component], coupled with recycled water already generated or planned to be delivered in the CSIP area (13,300 AFY), . . . would halt seawater intrusion based on 1995 demand." (SVWP EIR, p. 3-23, underlining added.)

Further, the SVWP EIR admits, in a key statement, that "any additional water needs within an intruded groundwater basin would exacerbate seawater intrusion." (SVWP Draft EIR, p. 7-7.)

The problem pervades the DEIR. Please correct each of the DEIR's claims regarding the effectiveness of the SVWP, and revise the DEIR analysis. This EIR should investigate the possible impacts of the GPU5 policies given the uncertain abilities or results of the SVWP. This EIR should also investigate and find out the actual delivery of the other "recycled water already generated or planned to be delivered in the CSIP area" to determine whether the SVWP assumptions are supported by the actual current facts in 2009, and/or projected to be fulfilled in the

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 48

future, and with what uncertainties, funding, and time frames. This information should be disclosed and discussed. 161

Table 4.3-10 (p. 4.3-117)

- A. Table 4.3-10 omits the North County subareas that are within the Salinas watershed. Those North County areas are in dire straits, and some residents are trucking in water because their wells have gone dry.
- B. As to Pajaro and North County, the table fails to disclose that water quality issues are a serious concern, specifically arsenic and nitrates, to the extent that major water system wells have been abandoned due to contamination. 162
- C. As to Chualar, please explain what is meant by the DEIR statement that "Chualar wells are independent of larger basins and represent small fraction of District demand." Where is the evidence that Chualar wells are independent of larger basins? Chualar is in the middle of the Salinas Valley basin, as the DEIR admits.
- D. As to Chualar, what is the relevance of the claims or (1) the purported independence of the wells, and (2) the small fraction of District demand? The DEIR implies that these facts somehow reduce the overall impact, even through the "Overall supply [is] severely short." Please explain and discuss.

As to the discussion of the Pajaro Community Area, please define what "substantial" increase in water use means. Please be specific, give a couple of numeric examples, and list the criteria and standards for determining a "substantial increase." 163

Also, please explain what the DEIR means by asserting that "Future growth in the Community Area cannot proceed without significant groundwater impacts unless new supplies are secured." (P. 4.3-117.) Is that a policy of the GPU5, and if so, where is it? Is that a conclusion of the DEIR, and if so, where is the analysis? What level of "new supplies" is required before future growth can proceed without significant groundwater impacts? The DEIR should investigate and discuss this issue.

Please explain and provide specific support for the DEIR assertion on page. 4.3-118 that:

With operation of the SVWP, CSIP, and/or other measures, anticipated withdrawals from the 180-Foot/400-Foot subarea to meet water demands of the Castroville Community Area 164

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 49

O-21k

would avoid further lowering of water levels in the aquifer and further seawater intrusion.

The SVWP and CSIP do not add new supplies to the Salinas Valley basin, on which the Castroville area relies. What are the "other measures" alluded to here? Please be specific. Please quantify the new demand of the CA and specify the location of the proposed water supply, and compare that to the seawater intrusion map showing seawater under Castroville. The addition of new demand to an already overdrafted basin will cause a further lowering of water levels and further seawater intrusion. If you disagree, please explain your response thoroughly, provide figures of all relevant supply and demand, disclose your assumptions, and cite to specific references, including pages and dates.

164

As to the Boronda development (p. 4.3-118), the conclusion as to the SVWP effect is incorrect. See our comments elsewhere on the SVWP and seawater intrusion claims. Also, if the SVWP is not completed before any of the Boronda development takes place, what are the short-term effects on water?

165

As to the Chualar development, please correct the reference to Highway 68 corridor. Please explain how the Chualar system is "managed independently" from the Salinas Valley basin. Please explain what the DEIR means when it asserts that the water demand "would not incur significant water supply impacts." Please define "significant" in qualitative and quantitative terms. The Salinas Valley basin is in overdraft, and increased pumping would cause increased harm, which is significant harm to the overdrafted resource, given that "any additional water needs within an intruded groundwater basin would exacerbate seawater intrusion." (SVWP Draft EIR, p. 7-7.)

166

Please describe the extent to which the SVWP EIR anticipated or projected supplying water for future growth, and whether that included the proposed Community Areas, AHOS, Rural Centers, Special Treatment Areas, AVWCP, and other development. Please cite to the specific pages on the DEIR where such consideration was given in the SVWP EIR analysis. Please compare the DEIR analysis of projected future water use to that in the SVWP EIR, and provide specific pages.

167

As a general water resources comment, to mitigate cumulative harm caused by this project, the EIR should consider a mitigation prohibiting all development on existing lots of record that increases water use in an overdrafted basin, until such time as the basin is being pumped at a level not greater than its recharge.

168

As to Fort Ord, why do the Marina Coast Water District withdrawals from the Deep Zone "rule out possibilities for meeting the new demand from local groundwater sources" (p. 4.3-119)? Please explain in detail. What difference does it make whether

169

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 50

O-21k

the pumping is from the unsustainable Deep Zone, or from the overdrafted Salinas Valley aquifer?

169

Please investigate and report the status of the Marina Coast Water District desalination plant. Is it operating, and at what level? What are the uncertainties around and the funding of the plant? Why does the DEIR qualify its discussion to the plant as "when operating"? How frequently does it operate, for what period of time, and at what delivery levels?

170

In the second paragraph on page 4.3-119, to what does "these uses" refer? It is unclear throughout the Fort Ord discussion when the DEIR is discussing the proposed Community Area demand, when it is discussing the current or future projected Fort Ord demand, and when both. Please explain and be specific.

171

Please explain how Fort Ord can be a "beneficiary of the SVWP," when the SVWP does not create new water. Please explain where in the references it is shown that there is 6,600 AFY of SVWP water that is produced and/or assigned to Fort Ord. Please explain why the DEIR ties the 6,600 AFY (which the preceding DEIR sentence connects to the SVWP) directly with the "approval of Cal Am's Coastal Water Project," which does not include water for growth or for non-Peninsula needs. The DEIR analysis is wrong and misleading.

As Cal Am, the proponent of the Coastal Water Project, asserts in its official Coastal Water Project website, the CWP is intended to replace the water Cal Am overpumps from the Carmel and Seaside aquifers, not to provide new water for the Peninsula, or any water for any other location. The DEIR fails to present the information and data as to the CWP's projected AFY production and the purposes to which CWP's desalination water would be put.

Here is information from Cal Am's website on the Coastal Water Project:

172

"Q: Will the Coastal Water Project result in increased growth and development?
Since it is a replacement water only project, the Coastal Water Project will not result in increased growth and development. At 11,730 AFY, the Coastal Water Project will replace 10,730 AFY historically diverted from the Carmel Valley Aquifer and 1,000 AFY historically pumped from the Seaside Basin." (Source: Cal Am's official CWP website, http://www.coastalwaterproject.com/inc_faqs.asp#growth)

The DEIR's concludes (at p. 4.3-119) that

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 51

future water supply to meet the demands of proposed land uses at Fort Ord is not readily obtainable without resulting in substantial depletion of groundwater supplies and further seawater intrusion.

Please explain the inconsistency between the conclusion above and this DEIR statement:

Despite lack of certainty over supply, the MCWD's UWMP (2005) forecasts that the District's service area will have sufficient water available to meet expected demands through 2025 with surplus . . .

How can MCWD forecast "sufficient water available . . . with surplus" in the face of unsustainable Deep Zone pumping and Fort Ord's wells risk of seawater intrusion, in addition to the FORA assumption of the availability of the additional 6,600 AFY? What does "sufficient water available" mean, exactly? Does it include pumping from an aquifer whose overall pumping exceeds its recharge? Does it include pumping from the Deep Zone? Which conclusion is this EIR relying upon, and why? This EIR preparer should investigate the conflicting claims, and present the data to the public for review.

Please explain how the provision for water to new growth in the Seaside aquifer and the Carmel River Basin "will be dependant on the Monterey Peninsula regional supply projects discussed above" (p. 4.3-119), given the information cited above that the Cal Am CWP does not include water for growth. If you mean other "water supply projects" identified, none of those contain water for Peninsula growth either, except for the regional water project that is in the very early stages of planning, is already very controversial from an environmental impacts standpoint, and is unfunded.

Please describe exactly what "adequate supply will be provided [to the Highway 68/Reservation Rd AHO] by the SVWP," and how it will be provided. As stated elsewhere in these comments, the SVWP does not include water for residential growth, and its impact analysis likely underestimated projected agricultural water demand and therefore cannot be relied upon.

As to the conclusory statement that "adequate supply [for the Rural Centers] will be provided with completion of the SVWP" (p. 4.3-120), please address the short-term and long-term impacts in light of comments elsewhere in this letter that the SVWP is not a water supply project, and may not be fully operational before the GPU5 policies are adopted. Please provide specific citations to references and pages that support your response.

As to the DEIR discussion of "development outside focused growth areas," at page 4.3-120, why does the DEIR assume that all legal lot development would be from

172

173

174

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 52

wells? Some areas, such as Big Sur, rely on surface water diversions. The DEIR should quantify and consider the impact of additional water well development for legal lot development.

In the second paragraph, please explain what is meant by "future development [in North County and the Seaside aquifer] will exacerbate that significant effect." The discussion ignores the Carmel and Salinas basins, which are overdrafted.

The DEIR should consider a mitigation preventing all new subdivisions in all overdrafted areas (including the Salinas Valley) until the basin is in balance, meaning that the pumping does not exceed the recharge.

The DEIR should consider a mitigation preventing development of lots of record in overdrafted basins until the basin is in balance, meaning that the pumping does not exceed the recharge.

Table 4.3-11 is inaccurate. The West Yost report and figures are distinguishable from the conditions in Monterey County. For example, as to the DEIR's assumption that 7 gallons of water are used to produce one gallon of wine (DEIR, p. 4.3-120), there is no support of the application of that hypothetical use to Monterey County. The cited support, the 2005 West Yost report, rejected that figure because it determined that in Napa Valley the actual water use by wineries was higher. Also, according to the comments presented on this DEIR by the Sierra Club, the calculations of water usage – even using the too-low figure – significantly underestimate the actual likely water demand.

There is no proposed limit or cap to the actual consumption of the wineries, so the estimates are unenforceable, and can be exceeded with impunity. The DEIR should consider an enforceable limit to actual water consumption by each winery. There is no requirement for any of the AWCP uses to meter their usage or report their usage to the County, so the information is verifiable by the public. The DEIR should consider such a requirement as mitigation.

The EIR preparer should gather data and analyze the current and future water demands of vineyards and wineries in Monterey County, given the soils, locations, microclimates, intensity and density of vineyards. Future crop water demands should be estimated, including assumptions about denser vine spacing in the future. Potential land use conversion of slopes to vineyards should be investigated. This is critical technical information, which the DEIR here ignores, apparently preferring to make unfounded generalizations about vineyards and wineries.

The additional demand for other uses allowed by the AWCP is not estimated. The DEIR's conclusory statement that the other uses "would have less demand than the wineries" (p. 4.3-121) is unsupported and unreasonable. The water demand should

174

175

176

177

178

179

180

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 53

O-21k

be estimated in good faith. Please investigate and provide good faith estimates of water demand by other uses, and disclose all your assumptions. 180

As a general comment on the proposed AWCP, the EIR fails to research or provide an accurate estimate of the AWCP impacts. Neither the GPU5 nor the EIR proposes any limit on the amount of development within the AWCP, other than the number of a few types of development within the AWCP (e.g., wineries, inns, residences). There are no limits as to maximum square footage of allowed uses, number of rooms, number of parking spaces, size of parking lots, number of ancillary uses, size of ancillary uses, and no limits to other scales of development. Further, there are no limits on impacts to water, lighting, traffic, biology, and other impacts. This is a serious informational failure of the EIR. Because the GPU5 proposes to exempt the AWCP uses from further CEQA review, this EIR should provide a project level review of these issues. 181

The DEIR admits that the AWCP water needs may include current agricultural water. The DEIR calculates that 60-86 AF is part of existing demand within the AWCP. However, the DEIR fails to acknowledge clearly that additional use may not be offset by existing demand, and the resulting impacts under those circumstances. 182

The DEIR claims that "With implementation of the SVWP, water supply is available to serve new uses in the corridor. As noted in Impact WR-5 below, new distribution pipelines will be necessary." As pointed out elsewhere in this letter, SVWP does not free up supply, it, at most, merely reduces some of the overpumping. Please explain the DEIR conclusion that water supply is "available." What water supply, and how much is "available"? What does "available" mean? Does it mean that the overpumped water supply is available? What are the impacts of new pumping and/or new uses in an overdrafted basin like Salinas? 183

Also, please explain what is meant by "new distribution pipelines will be necessary," where those pipelines would go, and their impacts. 184

The discussion of 2007 General Plan policies (4.3-122 to 4.3-126) is superficial. It fails to investigate the actual or likely effectiveness of the proposed policies. 185

The DEIR fails to evaluate the impacts of policy PS-3.2, which would allow credits for reduction of historical water use. The likely impacts of that policy is to increase water demand, because property owners will want to increase their current usage in order to maximize the amount of credit they could obtain in the future under PS-3.2. This reaction has been observed in this County, as County records show, and owners who wish to develop their property in the future have been advised to increase their water usage now, to set the stage for future "credits." The increased water use may not have a beneficial impact, and would cause harmful impacts to overdrafted aquifers. 186

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 54

O-21k

Given the overdrafted nature of the Salinas Valley basin, please investigate the impact of CSV-5.2. Does it mean that such uses would not be allowed until the basin is in balance, meaning that pumping does not exceed recharge? Please explain in detail. 187

The DEIR frequently mischaracterizes proposed GPU5 policies, thereby misleading the public. For example, the DEIR claims that Policy CV-5.2 states that "water projects designed to address future growth in the Carmel Valley shall be supported" (p. 4.3-125, underlining added). That is not what the policy says, which is: "Water projects designed to address future growth in the Carmel Valley may be supported" (GPU5, p. CVMP-12, underlining added). There is frequent confusion by the DEIR of the use of "should" versus "shall," and as a result the DEIR often mischaracterizes the proposed policies. (See, e.g., the DEIR discussion of policy CV-5.3 [DEIR p. 4.3-125 "should", instead of "shall" at GPU5, p. CVMP-12]; and policy CACH-5.1 [policy has one "should" and one "shall" (p. CACH-5), but DEIR converts to two "shoulds" (p. 4.3-125)]; and F. These errors are prejudicial, because it misleads the public into thinking that the policies are mandatory when they are not, or vice versa. It is also prejudicial because the effect of a non-mandatory policy is far from certain. Unless the decision maker is correctly informed whether a policy is mandatory or permissive, the decision maker may not have an accurate understanding of its effects. And to the extent that there is an analysis of the policy in the DEIR, it is unclear whether that analysis is based on the actual policy or on the DEIR's version of the policy. There are far too many examples of these errors to list here. 188

The DEIR also frequently misleads by providing only part of a proposed policy. For example, it refers only to the environmental-protection part of Policy PS-3.1 (p. 4.3-127), and omits the growth-enabling exception that is part of the policy. 189

The DEIR should review each of its policy descriptions for accuracy, and should quote directly wherever possible. The DEIR's failure to quote directly misleads the reader and causes fatal flaws in the DEIR analysis. Even where the DEIR quotes verbatim, it generally does not use quotation marks, which might reassure the reader that it is a direct quote. Many policies are quoted accurately, so the reader is lulled into a false sense that the DEIR is accurate, when it is not. The entire DEIR should be revised in accordance with these comments. 190

The DEIR merely lists the policies, and appears – without stating its assumption – to assume positive results that "will reduce the need for additional water supplies." (P. 4.3-127). But the DEIR fails to quantify the additional demand accurately, and entirely fails to quantify the purported reduction of demand by the policies. 191

As a general comment, the DEIR significance determination on this impact fails to reference or apply the significance thresholds presented at the beginning of the chapter. 191

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 55

The Significance Determination states "In the Salinas Valley, water supply projects are being built or are in the permitting stage that will meet demands to 2030 without resulting in overdraft." (P. 4.3-127) Please identify which projects are referred to here, their status, and when they are expected to be operating at full capacity. Because they are not yet operating, and will likely not be operating at capacity before the GPU5 is adopted, they cannot be relied upon. Please address the resulting impacts. See other similar comments elsewhere in this letter. This DEIR also fails to assess the environmental impacts of those projects in its cumulative impacts assessment.

192

As to the Monterey Peninsula, the DEIR significance determination is generally accurate (although unquantified) as to long-term water supplies, but fails to investigate or discuss short term impacts, which are also significant and unavoidable.

193

Please explain what is meant by "the SVWP will provide sufficient additional supplies from the system's reservoirs to meet 2030 projected demands and halt further seawater intrusion." (P. 4.3-127.) That statement is inconsistent with the SVWP DEIR.

194

The DEIR is incorrect in its assertion as follows:

Once in place, the Coastal Water Project desalination plant and the full implementation of the Aquifer Storage and Recovery project . . . will [sic] solve the existing supply problem and enable Fort Ord allotments to be met, but whether the CPUC will permit a desalination plant of sufficient capacity to serve additional growth is unknown at this time.

195

The CWP will not do what the DEIR claims. The CWP will not provide water for growth. See comments elsewhere in this letter. Further, the DEIR fails to acknowledge the uncertainty of the CWP, and the impacts before the CWP is "in place," if ever.

As to the regional supply program under discussion by the self-named "Water for Monterey County Coalition," that project is not final, very uncertain, unfunded, and is just beginning the environmental review process as an alternative to another project. The "Coalition" is informal, and describes itself as a "monthly dialogue group" (<http://www.waterformontereycounty.org/about.php>). Further, no agency has stepped forward to be the proponent of any project being discussed by the group.

196

Further, on January 30, 2009, the Draft EIR was released for the Coastal Water Project and the Water for Monterey County regional project. That Draft EIR lists multiple very significant unresolved issues and areas of controversy which must be overcome for any of the projects to succeed. The unresolved issues include (1) Relationships and working agreements between agencies involved in the Regional

197

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 56

Project need to be developed and formalized, and (2) The Future of Once Through Cooling (OTC) at Moss Landing is uncertain. The Areas of Controversy include (1) Use of the Salinas Valley groundwater for use on the Monterey Peninsula, (2) Appropriate use of recycled water and recycled water infrastructure: (whether to support agriculture or urban irrigation uses, how the recycled water is used, who has rights to use or deliver it, and what facilities are used for its delivery); (3) Public versus Private ownership of a desalination facility in Monterey County (by County ordinance, private companies cannot own a desalination project. Cal Am is a private utility); (4) Provision of replacement water (or water for existing uses only) versus water for approved growth (The Coastal Water Project, the North Marina Project and Phase 1 of the Regional Project all provide water for existing uses only. The Phase 2 Regional Project includes supplies to meet the needs of approved growth. While any water supply project in Monterey County is controversial, a project that includes water for growth, may be very controversial). (Source: http://www.cwp-eir.com/downloads/Vol1_CalAm%20DEIR0_e-x-summary.pdf.)

197

Given all these issues and obstacles, the GPU5 EIR should revise its analysis and correct its incorrect and/or conclusory statements about the CWP and the regional project proposed by the Water for Monterey County. Further, these disclosures in the CWP DEIR are further proof that the proposed GPU5 EIR mitigation measures MM WR-1 and WR-2 are ineffective, uncertain, and speculative.

Please explain in detail your calculations of 1,134 vacant residential lots in the CVMP and GMPP, and your assumptions. Does it include coastal zone data? As to each EIR figure of vacant residential lots, please describe the calculations, the sources, and the assumptions, including coastal zone figures. Please also list vacant non-residential lots.

198

Why does the DEIR not consider single family residences to be "discretionary development" (p. 4.3-128)? Please define "discretionary." See comments elsewhere on the DEIR's use of the term.

199

As to Pajaro Valley, please provide the status of each of the PVWMA water supply efforts listed on p. 4.3-128.

200

Please explain in detail your calculations of 1,134 vacant residential lots in the North County Plan, and your assumptions. Does it include coastal zone data?

201

The DEIR discussion of Pajaro Valley significance determination inconsistently references Pajaro Valley basin and North County. Please review, and make sure the correct term is used each time. There is no DEIR significance determination as to the North County subbasins that are in the Salinas Valley watershed, Highlands South and Granite Ridge. Please investigate, quantify and explain.

202

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 57

O-21k

Mitigation Measures (p. 4.3-130)

Proposed mitigation measure WR-1 is as follows:

WR-1: Support a Regional Solution for the Monterey Peninsula in addition to the Coastal Water Project.

This mitigation measure is ineffective, speculative, uncertain, and cannot be objectively measured. It is no more than a panacea. It does not ensure results. Please respond. Even the DEIR admits that it merely "puts the County on record as supporting a regional solution (but not necessarily those currently proposed)." Please explain exactly how MM WR-1 will reduce impacts on the Monterey Peninsulas during the 2030 planning horizon to below a level of significance. For each and every other place in the DEIR where this MM WR-1 is proposed as mitigation, please identify and explain exactly how MM WR-1 will reduce any impact in any tangible way. Please quantify each of your responses, and provide the calculations and data to support it.

The DEIR also proposes a change to the proposed Plan:

The County will revise the draft 2007 General Plan to include the following new policy:

PS-3.16. The County will participate in the Water for Monterey County Coalition, or similar regional group, for the purpose of identifying and supporting a variety of new water supply projects, water management programs, and multiple agency agreements that will provide additional domestic water supplies for the Monterey Peninsula and Seaside basin, while continuing to protect the Salinas and Pajaro River groundwater basins from saltwater intrusion. The County's general objective, while recognizing that timeframes will be dependent upon the dynamics of the regional group, will be to complete the cooperative planning of these water supply alternatives within five years of adoption of the General Plan and to implement the selected alternatives within five years after that time.

Please describe whether the EIR preparer has the authority to make changes to the project, such as adding policies to the General Plan. Please explain why this is not a mitigation, and why all mitigations were not written as new Plan policies.

Has the EIR preparer ever attended a meeting of the Water for Monterey County Coalition? We think not. Please also explain whether the County would be the lead agency on the projects, as implied.

203

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 58

O-21k

Proposed Policy PS-3.16 is ineffective, speculative, and uncertain. There is no evidence that participating in a group and having general objectives will be effective or have certain results. Further, see comments elsewhere in this letter on issues of controversy and issues to be resolved, as identified by the Coastal Water Project Draft EIR issued January 30, 2009.

This proposed new policy appears to take away from the County's discretionary authority, and to bind the Board of Supervisors to (1) implement unidentified projects (2) selected by an unofficial group of which the County would be in the minority (3) within a specific timeframe, (4) regardless of environmental impacts or the political will of the Board or of the voters. Please respond.

In addition, the policy is completely unrealistic given the amount of time the County spent in planning and (still) implementing the SVWP, and the time spent by other public agencies in the County on their water supply projects. All of this information is available to the County.

Significance Conclusion (p. 4.3-130)

As to the DEIR Significance Conclusion (p. 4.3-130), please explain, in quantitative terms, how "Implementation of the 2007 General Plan would increase demand for water in portions of the county beyond available supply." Which portions of the County, exactly? What does the ambiguous term "available supply" mean, exactly? Please see questions on this term elsewhere in these comments.

As to the Salinas Valley, the DEIR asserts:

Within the Salinas Valley, the SVWP will provide sufficient supply to reverse existing overdraft and seawater intrusion problems and to provide water for new development. No new or expanded water entitlements are contemplated to meet demand to 2030, and thus this is considered a less-than-significant water supply impact.

The claims as to the SVWP are incorrect. Please see comments elsewhere in this letter. Please address how that changes the EIR analysis here. If you disagree that the claims are incorrect, please provide specific citation to references that unequivocally support your claim. In any event, even if the SVWP did what the DEIR claims, which it does not, the DEIR fails to adequately investigate and disclose the short term impacts that will happen before all components of the SVWP are fully operational, but after the GPU5 policies are adopted.

203

204

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 59

O-21k

Please explain what is meant by "No new or expanded water entitlements are contemplated to meet demand to 2030." Please explain exactly what "new or expanded water entitlements" means here, and on what this assumption is based. 205

The DEIR assertion is also incorrect because it ignores the North County subareas of Highlands South and Granite Ridge, both of which are overdrafted, and in some cases, gone dry. The DEIR does not address the increased demand under GPU5 on the existing overdraft in those subareas. 206

As to the Monterey Peninsula and Pajaro Valley, why does the DEIR define major supply projects to be "sufficiently developed" when they "are at the Draft EIR phase"? Please explain what "sufficiently developed" means, in measurable standards and criteria. Does it include political support, or confirmed and reliable funding? 207

Please quantify to what extent the proposed Plan policies will "constrain" development, and to what extent the policies will allow or enable development. Please define "constrain" as used in this DEIR. 208

Please define what you mean by "non-discretionary development on legal lots of record". Please define what you mean by "non-discretionary development." Please explain if "non-discretionary development" includes development in overdrafted basins. 209

Please describe how the development of legal lots of record will exacerbate existing water supply problems. (P. 4.3-130.) Please quantify those impacts.

As to Buildout (p. 4.3-131), please show the calculations and assumptions used to arrive at the determination there would be 36,000 more dwellings within the unincorporated County areas than in 2006. Please clarify whether coastal zone is included in that calculation. If so, how many dwellings it is projected to contain, and whether the calculations and assumptions are the same, and if not please include. 210

Please explain in detail the DEIR claim that

The SVWP has the capacity to provide additional water to the Salinas Valley with expansion of the distribution system, capture of additional flows through changes in operational management of the dams, and continued trends of per capita conservation. 211

Please explain what is meant by "capacity," as well as the costs and the funding for the various steps provided, and the planning and CEQA review status of each one.

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 60

O-21k

Please explain why the DEIR assumes that significant reductions in agricultural water use is the same as significant reductions in agriculture. Please provide support for your response, including citations to specific pages. 212

The DEIR fails to address the impacts of climate change on seawater intrusion, other than in the most general terms (p. 4.3-133). The discussion is inadequate. Please investigate and provide the best information available as to the impacts, including on coastal aquifers. 213

Where is the DEIR analysis of climate change impacts on water resources under the 2030 planning scenario? The analysis is missing. There is sufficient technical information to make an effort to gather and disclose the information available.

Please list "the policies of the 2007 General Plan" that are referenced on lines 8 and 9 of page 4.3-133. 214

Mitigation Measure WR-2, "Initiate Planning for Additional Supplies to the Salinas Valley" (p. 4.3-133), is another ineffective and speculative mitigation measure. It contains no measurable achievement standards, no enforcement, no goals, and no timelines. It cannot reduce the impacts as claimed. We object to it here, and to every time it is proposed as a mitigation in this EIR. Please explain exactly why the DEIR concludes that it will reduce the impacts of GPU5 development and climate change in the Salinas Valley to less than significant. 215

Again, please explain under what authority the EIR preparer can make changes to the project itself, as it does in proposing new Plan policies PS-3.17, PS-3.18, PS-3.3i and PS-3.4g. These are not mitigations to reduce the effect of the project; they are changes to the project itself. Why did the EIR preparer not propose that all mitigation measures be actually included as policies in the Plan? Why were some changes proposed as mitigations, and others as new Plan policies? What is the different effect of each one? 216

The proposed new PS policies have similar problems to those identified elsewhere in these comments, including: they commit the County to a specific course of action without any awareness of the environmental impacts, funding, or other options; they are ineffective ("convene a working group"); etc.

Where is the MCWRA conclusion that the SVWP second phase is "feasible"? Please provide the specific reference and page numbers. What does "feasible" mean in this context? Does it mean planned and funded? 217

The DEIR significance conclusion analysis again omits any discussion of the North County subbasins that are not in the Pajaro Basin. These subbasins are uphill 218

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 61

O-21k

from the SVWP, and will not receive any benefit from the SVWP because water does not flow uphill.

218

Impact WR-5 (P. 4.3-135)

For water storage, treatment, and conveyance facilities in the proposed Winery Corridor, please describe whether they would be allowed without further CEQA review under the proposed AWCP. It appears they would be exempt. Please be specific in your response, and cite to the supporting authority.

219

The discussion of Impacts of regional Supply Project (4.3-135) is fatally flawed because it is overly vague, and as to many projects, the DEIR fails to quantify the amount of impacts, or water supplied, or region served, or area-specific challenges or issues that may cause the "secondary impacts" to be significant.

220

The DEIR fails to identify the location of the Rural Centers as the Salinas Valley (p. 4.3-141), and to discuss the impacts of secondary effects. The Rural Centers are not mentioned in the Significance Determination of the Salinas Valley (4.3-143). Given that all of them are in the Salinas Valley, and they may all need infrastructure, the error is prejudicial.

221

The discussion of "Impacts of Water Facilities for the AWCP and Agriculture" (p. 4.3-142) ignores the need for facilities to support the winery-related and other uses that would be allowed in the Winery Corridor. The DEIR failed to identify or quantify the water needs of these uses, and compounds its omission here.

222

The DEIR previously had discussed the possibility that some of the Winery Corridor demand would be met by transfers from the prior use of the land. However, here, the DEIR takes that possibility as fact, without support. In this discussion, what does it mean by "existing supplies"? Does "existing supplies" include the overdrafted Salinas Valley Basin? If so, why?

223

The DEIR should consider a mitigation that would prohibit new non-essential uses of water in the Salinas Basin until it is brought into balance.

224

The DEIR acknowledges that "Where agriculture expands into new areas, new infrastructure would also be required to provide water supply." (P. 4.3-142.) The DEIR also acknowledges elsewhere that the proposed GPU5 policies, such as the increased ability to develop on steep slopes, may allow more vineyards to be developed. Elsewhere the DEIR acknowledges that the Winery Corridor may indirectly encourage more vineyards. Given all that, the DEIR's failure to make a reasonable investigation into the amount of water required by vineyards and other uses under the GPU5 policies is a prejudicial informational gap. The failure to investigate the amount of water needed leads to another informational gap: the failure to determine the amount, nature, and

225

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 61

O-21k
Repeat page

from the SVWP, and will not receive any benefit from the SVWP because water does not flow uphill.

Impact WR-5 (P. 4.3-135)

For water storage, treatment, and conveyance facilities in the proposed Winery Corridor, please describe whether they would be allowed without further CEQA review under the proposed AWCP. It appears they would be exempt. Please be specific in your response, and cite to the supporting authority.

The discussion of Impacts of regional Supply Project (4.3-135) is fatally flawed because it is overly vague, and as to many projects, the DEIR fails to quantify the amount of impacts, or water supplied, or region served, or area-specific challenges or issues that may cause the "secondary impacts" to be significant.

The DEIR fails to identify the location of the Rural Centers as the Salinas Valley (p. 4.3-141), and to discuss the impacts of secondary effects. The Rural Centers are not mentioned in the Significance Determination of the Salinas Valley (4.3-143). Given that all of them are in the Salinas Valley, and they may all need infrastructure, the error is prejudicial.

The discussion of "Impacts of Water Facilities for the AWCP and Agriculture" (p. 4.3-142) ignores the need for facilities to support the winery-related and other uses that would be allowed in the Winery Corridor. The DEIR failed to identify or quantify the water needs of these uses, and compounds its omission here.

The DEIR previously had discussed the possibility that some of the Winery Corridor demand would be met by transfers from the prior use of the land. However, here, the DEIR takes that possibility as fact, without support. In this discussion, what does it mean by "existing supplies"? Does "existing supplies" include the overdrafted Salinas Valley Basin? If so, why?

The DEIR should consider a mitigation that would prohibit new non-essential uses of water in the Salinas Basin until it is brought into balance.

The DEIR acknowledges that "Where agriculture expands into new areas, new infrastructure would also be required to provide water supply." (P. 4.3-142.) The DEIR also acknowledges elsewhere that the proposed GPU5 policies, such as the increased ability to develop on steep slopes, may allow more vineyards to be developed. Elsewhere the DEIR acknowledges that the Winery Corridor may indirectly encourage more vineyards. Given all that, the DEIR's failure to make a reasonable investigation into the amount of water required by vineyards and other uses under the GPU5 policies is a prejudicial informational gap. The failure to investigate the amount of water needed leads to another informational gap: the failure to determine the amount, nature, and

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 62

location of new infrastructure required to provide water supply to these new uses. As a result of these failures, the DEIR is not able to assess the significance of these impacts.

225

Significance Determination

Please explain in detail the DEIR claim that " New potable supplies for growth up to the 2030 planning horizon will come from the SVWP for the Salinas Valley" (p. 4.3-143). Please consider the comments elsewhere in this letter regarding the SVWP's lack of accountability, timelines, or verified effectiveness. Please provide references to the technical support for your response, including page numbers.

226

Mitigation Measures (p. 4.3-144)

Please list by number the "numerous policies in the General Plan that address impacts from construction and operation of new infrastructure." The public should not have to hunt through the 1270-page proposed GPU5 looking for them, or guess what the DEIR refers.

The DEIR claims that

In many cases, the application of 2007 General Plan policies and the mitigation in this EIR would reduce secondary impacts of water supply infrastructure to a less-than-significant level.

227

What is a "case" – is it a project, or a type of impact? Please explain how the DEIR determined how many total cases there would be and in how "many" of those cases this would be the result, what kind of cases, and where those projects would be located. Please explain in detail how the DEIR came to this conclusion, given the very vague analysis that precedes it.

Impact WR-6 – Continued Decline of Groundwater Levels and Accelerated Overdraft

The DEIR states, at page 4.3-146 and -147,

Ultimately, the sustainability of groundwater supplies requires that the volume of water cumulatively drawn from an aquifer not exceed the volume of groundwater recharge. Typically, this balance needs to occur over a period of years, recognizing that periodic drought conditions and years of abundant rainfall are a part of the normal California weather pattern. As mentioned previously, there has been substantial historical overdraft of most of the county's major aquifers.

228

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 63

Please explain the DEIR's use of the word "ultimately." Does not the principle recited – the sustainability of groundwater – require that the principle apply at all times, not just "ultimately"?

How many years is meant by the phrase "this balance needs to occur over a period of years"? Please quantify, and provide technical support for your response, including page numbers.

The following discussion is exactly what is happening in the County now:

If a water balance is not achieved and maintained over the long term, groundwater levels will continue to drop, resulting in the need to lower pumps, deepen wells, or drill new wells. Over time, groundwater supplies would be further depleted and local aquifers may no longer be a dependable source of water.

228

The EIR should acknowledge that today much of the County's groundwater resources have been adversely affected (i.e., lowering of groundwater levels and intrusion of seawater), and for that reason, recovery is more difficult, and all that more urgent because it has been going on uncorrected for so long.

For the first time, the DEIR states on page 4.3-147 that "Some groundwater level declines have occurred in the Deep Zone" which the DEIR describes elsewhere as ancient and unsustainable water that is not being recharged. Please explain where these declines have occurred, quantify the declines, and which management agency has been allowing it to happen.

229

The EIR should consider a mitigation prohibiting extractions from the Deep Zone due to its unsustainable nature.

230

The DEIR misleads the public in saying that only "many" aquifers are in overdraft (p. 4.3-147). Please discuss which of the County's aquifers are not in overdraft, list them by name and location, and show them on a map. For those aquifers, please disclose the current known or estimated pumping, and the current known or estimated recharge, in AFY.

231

Please explain in detail the DEIR claim that "The SVWP will substantially reduce summer demand on groundwater resources in the Salinas Valley." (P. 4.3-148.) Please explain how, quantify the claimed "substantial" reduction, quantify the pre-SVWP summer demand with the post-SVWP summer demand, and identify where the reduced pumping will take place. Please support your responses with specific technical references, including page numbers. Recall that the SVWP will not be effective until all

232

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 64

components are fully operational, which is many years away. Please reconsider the claim.

232

As to the DEIR claim that

The SVWP, in conjunction with the Monterey County Water Recycling Projects, is expected to meet both urban and agricultural water needs in the Salinas Valley to 2030. (Monterey County Water Resources Agency 2001.)

233

Please explain how, and provide a table comparing the urban and agricultural water needs in the DEIR and in the SVWP EIR (the cited source). Please add in the water demand that was omitted from this DEIR which we address elsewhere in these comments, such as the increased vineyard demand and the non-winery AWCP development. Please support your responses with specific technical references, including page numbers.

Please describe in detail the CSIP efforts to "inject recycled water into its underlying aquifer in order to halt seawater intrusion in the Castroville area." (P. 4.3-149.) Please quantify the current amounts of injected water, and the projected amounts, and what the timeline is. Please support your responses with specific technical references, including page numbers.

234

Following the pattern identified earlier in this letter, the DEIR merely lists the GPU5 policies that it thinks might apply to the impacts, without assessing their effectiveness or timeliness. This is a fatal flaw in the DEIR, which is intended to be an informational document.

Some of the policies are advisory, and are not effective. For example, PS-2.2 states that the Water Resources Agency shall assure adequate monitoring of wells in those areas experiencing rapid growth provided adequate funding mechanisms for monitoring are established." (P. 4.3-149.) The policy fails to define "rapid growth" or provide any direction as to its meaning, so it is impossible to quantify its effectiveness because its application is unclear. Even more fundamentally, the policy uses qualifiers to avoid effectiveness and accountability. Specifically, the policy's use of the undefined adjective "adequate" to modify monitoring, as well as the key phrase "provided adequate funding mechanisms for monitoring are established," mean that it is impossible to rely on this policy to reduce impacts. If there are no "adequate funding mechanisms" established by the County, then the County never has to "assure adequate monitoring of wells." This type of ineffective policy is typical of the County, whose mandatory programs have not been adequately funded or implemented for many years.

235

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 65

This section also continues the DEIR pattern is mischaracterizing the proposed GPU and Area Plan policies. For example, the DEIR paraphrases the policies SC-5.1 and SC-5.3 as "each requir[ing] new development to maximize groundwater recharge capabilities." (P. 4.3-152). That is not what the policies say – neither uses the term "maximize groundwater recharge," which carries specific implications. One policy states that development "shall not diminish groundwater recharge" and the other that development may not encroach on certain areas "in order to conserve groundwater recharge." See our comments elsewhere in this letter on this pervasive problem.

235

This EIR should investigate whether the agricultural water demand will decrease with time as a result of changes in crops, specifically the assumption that vineyards will replace row crops. This past assumption (in the SVWP) appears no longer accurate in light of the proposed GPU5 policy to allow increased agricultural conversion of native steep slopes. This proposed policy would open up previously undevelopable land to vineyards, while row crops would continue to be cultivated on the valley floor. The increased availability of tens of thousands of acres of steep slopes (the EIR fails to quantify the amount) to vineyards would mean increased use of water, without a corresponding reduction as theorized by the SVWP EIR. Does that change the analysis, and if so, how? Please address in detail, and provide supporting technical references, including page numbers. Please also provide the specific page citations to the SVWP EIR on which the DEIR relies (see bottom of p. 4.3-153).

236

Please explain the DEIR significant determination that AWCP implementation would not substantially change the assumptions supporting the conclusion of the SVWP EIR/IS (p. 4.3-154). Please state all the assumptions and conclusions referenced here, and provide page numbers for them in the SVWP EIR/EIS.

237

Please describe what is meant by "AWCP policies will be subject to regulation" when the GPU5 proposes that the facilities be exempt from CEQA review and possibly discretionary review? Please explain in detail, and give examples. Please provide support references for your response, including page numbers.

238

We disagree with the significance determination and conclusion as to the Salinas Valley, for the reasons provided elsewhere on this issue.

We repeat our earlier comments regarding proposed MM WR-1, which is used repeatedly in this chapter.

Please identify the reference document and page in which "The MCWRA has opined that further actions can extend the supply available from the Salinas River system by 10,000 AFY." (P. 4.3-155.) Please identify the technical documentation (and specific pages thereof) that support that MCWRA opinion.

239

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 66

O-21k

Please provide the analysis behind the DEIR conclusion that "This [extension of supply by 10,000 AFY] would avoid increased overdraft." Without an analysis of additional demand at buildout, on what basis does the DEIR conclude that 10,000 AFY will address it? Please provide specific calculations, and the assumptions underlying your response.

240

Please identify the reference document and page in which the MCWRA has opined that "a second phase of the Salinas Valley Water Project is feasible." (P. 4.3-156.) Please identify the technical documentation (and specific pages thereof) that support that MCWRA opinion.

241

The significance conclusion (p. 4.3-156) again omits the Highlands South and Granite Ridge subbasins from the discussion, without explanation. There is no information that the SVWP Phase 2 would reach to the upper reaches of the Salinas Valley watershed, where these subbasins are located, or if so, that the amount of water would offset the then-existing overdraft in each basin.

242

The analysis of Impacts WR-7 through WR-14 follow the pattern described earlier in this letter: prejudicial informational errors, flawed (or absent) analyses, a continuing failure to quantify impacts and mitigations, failure to apply threshold standards adequately, and unsupported statements and conclusions.

243

Impact WR-7 (p. 4.3-157)

Because Policy PS-3.6 applies only to prohibit wells in known areas of saltwater intrusion, the EIR should consider a mitigation that prohibits wells within one mile of known seawater intrusion, or a similar measure to prevent the further exacerbation of seawater intrusion.

The significance conclusion as to the Salinas River basin (p. 4.3-163) is unsupported. (See comments elsewhere in this letter as to the SVWP effectiveness.) The conclusion should be "significant and unavoidable impacts."

244

As to the significance conclusion for the Seaside basin, the DEIR inappropriately relies on the proposed desalination projects that, as of the writing of the DEIR, were not even at the Draft EIR stage. Elsewhere, the DEIR appropriately rejected those uncertain and unfunded conceptual desalination plants as reliable ways to reduce significant impacts, and should do so here, as well. The conclusion should be "significant and unavoidable impacts."

Impact WR-8 (p. 4.3-165)

Please explain how the GPU5 policies would be applied in specific locations. For example, would any GPU5 policies (and if so, which ones) have prevented the

245

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 67

O-21k

existing water quality problems caused by wastewater disposal in North County and in the Carmel Highlands?

245

Impact WR-10 (p. 4.3-173) – Increased Runoff and Streambank Erosion

The DEIR analysis fails to adequately assess the impact of the policy OS-3.5 that would allow and enable steep slope development, as well as denuding of and irrigation of steep slopes. This policy would allow development that causes increased runoff and erosion on tens of thousands of acres that were protected from development under the 1982 General Plan.

The DEIR analysis also fails to investigate or disclose whether any of the AWCP development or Routine and Ongoing Agricultural activities would be exempt from any of the policies that protect runoff and erosion. If any of those is exempt from CEQA review and County planning review, then the protective policies would not reduce any significant impacts those actions would have. Please discuss, and provide specific technical references for your response, including page numbers.

246

As to the significance determination (at p. 4.3-180), please explain how current ordinance requirements and practices are relevant to GPU5, because once GPU5 is adopted the ordinances and practices may change because they are subordinate to the general plan. Please explain exactly which ordinances and practices are relied upon, discuss the potential changes to them, and providing supporting documentation as to why they can be relied upon in this EIR analysis.

As to the significance conclusion, the EIR cannot rely on Policy S-3.7 (preparation of a flood criteria or drainage design manual) to reduce impacts because there is no timeline for implementation of that policy. The EIR must analyze the ability of existing ordinances and policies (which should be specified) to reduce the impacts until such time as S-3.7 is completed and adopted by the County. The conclusion should be reconsidered based on this analysis.

Impact WR-12 (p. 4.3-187) - Development in 100-Year Flood Hazard Areas

The DEIR analysis addresses only the Pajaro River flooding, and not the recent Carmel River flooding. The analysis should be more comprehensive.

The discussion of Policy OS-3.5 (p. 4.3-188) appears to be misplaced. The DEIR mischaracterizes the policy (another example of these pervasive problem). The policy allows development of slopes; we cannot find a reference to "floodplain" in it.

247

The EIR should consider a mitigation that prohibits new residential development within the 100-Year hazard areas.

O-21k
The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 68

Why does the County propose placing a Community Area in Pajaro, which the DEIR identified as a flood plain with past severe floods in recent history? At least one of the proposed Special Treatment Areas is in a flood plain, as well. To reduce the impacts on siltation, public services, hazards, and other impacts, the DEIR should consider an alternative that does not have any Community Areas, Special Treatment Areas, or AHOs in flood plains.

If the Rancho Canada Village subdivision would require earth moving, as currently proposed, that action would increase erosion sedimentation. Please consider an alternative location for the STA currently proposed for the mouth of the Carmel Valley.

The EIR preparer fails to disclose a potential conflict of interest as to floodplain analyses: Jones & Stokes is also preparing the EIR for the Rancho Canada Village project, which is a residential project in the 100-year floodplain.

The DEIR fails to disclose the fact that Monterey County water suppliers are committing and/or transferring water obtained from wells in Monterey County to locations outside of Monterey County. For example, County records indicate that Aromas Water District is sending water pumped from North County to San Benito County. The EIR should investigate and evaluate the impacts of this action. The EIR should consider a mitigation that prohibits sending water obtained from a well in the County to a location outside the County.

Water Resource mitigations

The DEIR is fatally flawed because it never attempts to quantify the water supply solutions needed that would mitigate the water resource impacts of the proposed Plan to less than significant. The proposed mitigations are equally flawed because they do not quantify the new water that would be produced by the mitigations. As a result, there is no way to estimate the effectiveness of the mitigations.

The DEIR should consider the following two mitigations that address water demand.

Greywater Systems in New Construction or Major Renovations

One General Plan mitigation measure that needs to be added to the water section is to adopt a policy requiring greywater systems to be installed in all new residential dwellings and major renovations of all construction types. The goal of such a policy is to conserve water, especially given region's dwindling water sources and the proposed rate increases that are intended to fund past management mistakes and future projects (e.g., the 126% rate increase by California American Water Company to

O-21k

247

248

249

O-21k
The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 69

support failed past practices (dam removal due to failure to adequately manage the dam over many years) and future desalination proposal).

Water Conservation

Most residents and business are currently conserving water. However, there is much more that can be done. Within the proposed development areas, there continues to be a wide disparity between the highest and lowest users.

If water conservation efforts were targeted at the highest users the greatest results can be achieved. These users should pay much higher rates and have strong disincentives to limit their use to levels appropriate for their household or business size. Widespread use of drip irrigation systems, rain sensitive timers, nozzles, and low flow devices can be encouraged through direct neighborhood marketing efforts.

Additionally, replanting programs should be developed and promoted to encourage property owners to move away from existing lawns and water-intensive ornamental plantings. The incentives should ensure that the conversion of landscape is permanent and enforceable. Programs that encourage converting lawns to edible plantings or drought tolerant gardens have been undertaken throughout more arid areas of the United States. One program in Las Vegas notes that "lawns may be a luxury we can't afford" and pays homeowners \$1.50 per square foot to remove their lawns and put in climate-friendly landscapes.

LAND USE

The analysis of LU-2.35 is unclear. The GPU5 text states that "This policy does not apply in the Coastal Zone." Does that mean that policies (a), (b) and (c) do not apply in the Coastal Zone, or only policy (c) does not apply? Which option did the DEIR analyze, and why?

The figures apparently do not include land use in the coastal zone. Instead, the figures leave the coastal zone as undefined (see, e.g., Exhibit 3.4, North County Are Plan Land Use Map, showing land use in detail, except showing much of North County as plain white, without showing actual land uses). The DEIR should present actual on-the-ground conditions, and should be recirculated with that information. Unless the information is presented and analyzed, it is unclear to the public what impacts are being analyzed. It is not enough to say that the issue is addressed in the appropriate LCP, because (1) the information is omitted from this DEIR which falls as an informational document, (2) the GPU5 states that it will result in amendments to the LCP, and the environmental impacts must be assessed at the earliest possible stage (which would be now), otherwise the CEQA analysis would be piecemealed.

O-21k

249

250

251

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 70

Castroville Community Plan:

The DEIR should consider a mitigation to eliminate the newly zoned parcels in the Coastal Zone. That mitigation would reduce the environmental impacts.

252

3.3.1

Potable water supply is not discussed under section 4.11, as the DEIR claims. Please correct the reference.

253

Table 3-1, 3-3, 3-4, and 3-5 are very confusing. Do the unincorporated County figures include coastal areas? Please address whether those areas should they be included for the purposes of this DEIR analysis. If adopted, the GPU5 includes or will include the Coastal areas once the LCPs are amended, so the Coastal areas should be included. On the other hand, the GPU5 and the DEIR variously imply that the coastal areas are not included, or some may not be, so why would the coastal figures be included in statistics? Please respond.

254

3.3.1.2

For projecting a rate of growth, the DEIR's use of the figure of "417 building permits for residents per year" makes no sense. This statistic is also used to calculate part of Table 3-5 (see note c).

- Where did this information come from?
- How many years were used to arrive at this statistic of 417 building permits per year?
- How many of those building permits were for single family residences, versus building permits for remodels, rebuilds, or multi-family developments? What impacts does this information have on the DEIR analysis?
- Please provide the correct number, describe it accurately, and explain your math to get to the projected buildout date.

255

With the increasing tendency toward mixed use, the buildout date may be much sooner than anticipated. The DEIR should discuss and provide that analysis. Because mixed use developments tend to be on property not zoned residential, the use of a baseline figure of residential lots would make no sense in the necessary calculation. Please provide your data, a corrected analysis, and the methodology used to arrive at it. Is the DEIR's projected rate of growth different under this analysis?

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 71

On Table 3-5, please explain what note (b) means. It does not make sense that 2006 numbers should be "adjusted . . . for future annexations" because 2006 is already passed. You either have the number or you don't, and you know whether annexations have taken place. The 2006 number should be the actual number, or the 00-05 number extrapolated one year. If any, it is future extrapolated numbers (not past numbers) that should reflect annexations. Please describe the methodology used to arrive at the 2006 numbers, and show your work.

255

On Table 3-5, note (b), please identify and quantify each of the "future annexations" that were used to arrive at the result. Please list all assumptions for your data and calculations. As written, the term is too vague for the public to review for accuracy. The 2006 numbers are far too important to the DEIR analysis to be hidden from public scrutiny, as the DEIR does.

On Table 3-5, please explain why note (c) applies the unit rate of growth (shown as 417/year, see above comments) only after 2030, and not before. If it were applied for 2006-2030, how does the analysis change? Why is that method not used?

On Table 3-5, the assumptions for note (d) appear to be incorrect. As to the City/County split, the assumptions fail to consider the increasingly built out nature of County cities, especially on the Peninsula where water is scarce and has severely constrained residential growth. The assumptions also fail to consider the increasing growth in the County, where the County decision makers do not protect their overdrafted water sources with, for example, the vigor of the Monterey Peninsula Water Management District. Please respond.

If the coastal areas are not included, is the AMBAG estimated 75/25 split still accurate, or is the split different?

Table 3-6 makes no sense. What and who is the source for this data? The table says "based on parcel data" – what does that mean, where is the data kept, and how often is it updated? Does the table represent actual existing land use or existing zoning or something else? Does it account for parcels with multiple legal lots of record, and if so, how? The GPU5 does not include a category of "Other" (see Table 3-11) which is the seventh category in Table 3-6 to describe land use. In Table 3-6, "Other" land use is significant. For example, 47% in Carmel valley and 22% in Greater Monterey Peninsula was "Other" land use. The DEIR tables should be internally consistent, or describe the differences. The DEIR analysis is confusing because the public does not know in which of the six GPU5 categories the "other" should be placed. Please respond, include the omitted data, show your calculations, and state your assumptions in creating this table.

256

Why is the Fort Ord Planning Area shown as "0" acres?

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 72

What are the “coastal/non-coastal areas”? That category makes no sense to the reader. Exactly what and where is the single residential acre in the coastal/non-coastal area? Why – and how – are the coastal areas’ acreage provided separately from the planning areas’ acreage? The planning areas include the coastal areas. How much coastal area is in each planning area?

256

Table 3-7 is also hard to understand. Is it a table of existing land use for the proposed community areas and rural centers? Why is the Fort Ord acreage provided here, inconsistent with Table 3-6?

257

Table 3-8 is very hard to understand. What is it trying to say? It fails as an informational document. Where did the numbers in Table 3-8 come from? Please describe your assumptions, and show your data and calculations to arrive at each number. As shown from the comments below, many of the figures in the table do not make sense. Who prepared the table, using what source?

- Do the “unit” counts include second units where permissible? If not, why are second units not included? Please explain.
- For Cachagua, where will the 22 acres of new commercial development (or even the five acres by 2030) be located?
- Why is the analysis of special treatment areas not included in this table? For example, the three STAs in Carmel Valley (mouth of the Valley, airport, and Village (Gardiner)) are not listed. They should be included in the discussion of new growth in Carmel Valley.
- In Carmel Valley, where are the new 52 acres of commercial development (by 2030) going to be located? Where will the new 239 acres of commercial development (by buildout) be located?
- For Fort Ord, where are the 88, then 226 acres of new commercial going to be located? In your response, please point the reader to the DEIR analyses of that new development’s impacts.
- For North County, if there are 577 vacant residential lots, and GPU5 will limit growth to one residence per residential lot, how can there be 3,260 units at buildout? Where will the 238 acres of new commercial development by 2030 be located? In your response, please point the reader to the DEIR analyses of that new development’s impacts.
- The apparent division of area into “inland” and “coastal” does not make sense because some of the land being discussed in the “inland” category is located in the coastal zone, and the estimated future acreage can only

258

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 73

be achieved if the LCP is amended to allow for the projected growth. For example, the Castroville Community Area is partially located in the coastal zone, and that is where the vast majority of the new development is planned. (See LU-8.) What are the meanings of “inland” and “coastal” as used in the DEIR?

258

These are reasonable questions. If there is insufficient acreage for the estimated expansions within each area, either under existing zoning or the proposed GPU5, why are the estimates made at all, and on what basis? If there is insufficient acreage under either the current plans or under the proposed GPU5, what are the impacts of changing it?

3.4.5.2

What does the sentence mean that “residential development rights created by subdivision are to be dedicated to the County or a qualified non-provide conservation organization”? What could the County do with residential development rights dedicated to it? Could the rights be used elsewhere in the County? These foreseeable future steps should be discussed and their impacts addressed.

259

What is a “visitor farm” (p. 3-28)? Please be specific, and explain why the term is relevant to the DEIR.

260

The DEIR is supposed to analyze environmental impacts of a project, not be a blatant sales job for the project. The entire paragraph under 3.4, with the exception of the first sentence, should be stricken from the DEIR because it is unacceptable advocacy for the project, and it is conclusory. It violates the requirements of CEQA.

261

3.4.1

The conclusion that the GPU5 “does not apply to coastal areas” (p. 3-23) should be explained in detail. The confusion over this issue is addressed elsewhere. Please provide sources for the conclusion. The application of GPU5 policies to the Coastal Areas is a known and reasonably foreseeable future action, and a direct result of GPU5. A clarification of GPU5 to the coastal areas should be provided. The DEIR should analyze the impacts of GPU5 to the coastal areas.

262

Table 3-11 includes only six categories.

As to Table 3-11, it is unclear why the uses listed in the “Types of Uses” column are capitalized. Do they have a specific definition because they are capitalized? The source document is shown as the Land Use Element, but the uses are not capitalized in that Element so we are confused by the inconsistent presentation. Please explain. Also, the list omits pertinent GPU5 information for some categories. For example, LU-

263

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 74

O-21k

2.35 states that resource conservation includes primarily rural residential or agricultural areas. The entry for "Resource Conservation" in Table 3-11 does not mention that this category could include residential or commercial uses, which could change the analysis or understanding of that land use category. Please correct and make the entire table complete and accurate.

263

3.4.5 Countywide Land Use

The DEIR claims "the following discussion provides a description of each Area Plan" but the following descriptions describe the physical boundaries of the plan, the cities and communities within it, and geographic features (with one exception, described below). The DEIR merely describes the land area that is covered by each plan – it does not describe the plan itself, as the DEIR claims.

The DEIR fails to describe adequately what the GPU5 would do to the Area Plans. The DEIR should disclose this issue and discuss it, because the GPU5 policies would have different environmental impacts and timing depending on it. Would the GPU5 modify the area plans directly? Would a separate process be followed to amend the Area plans to reflect new GPU5 policies?

264

In the same way, the DEIR fails to describe adequately what the GPU5 would do to the coastal areas. The DEIR should disclose this issue and discuss it, because the GPU5 policies would have different environmental impacts and timing depending on it.

If, as the DEIR claims, the GPU5 will not apply to coastal areas, then the GPU5 is a stripped-down and inadequate version of the general plan that is intended to apply county-wide (after implementation/incorporation into the area plans and coastal areas) and should be analyzed countywide. The County's current approach is a piecemeal approach to the general plan, and as a result the CEQA analysis is inadequate because it cannot assess the whole of the action.

Table 3-12

What does the note mean? The data and the inadequate note are confusing. Please explain the differences in how the parcel data categorizes use. Please explain the differences in how the acreage is determined. Please explain why the parcel data does not match the information in Table 3-12. Please identify which DEIR table contains the "parcel data described above" referenced in the note.

265

Why does Table 3-12 include an "other category" while Table 3-11 does not? The discussion of this issue is important because "Other" is a significant percentage of some areas, as described in our comments above.

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 75

O-21k

What is "the entire General Plan planning area" referenced on p. 3-25? Does it include the coastal area? If not, why not? The unincorporated coastal areas will be subject to the GPU5 policies and programs promptly, or as soon as the LCP is amended to incorporate them. Logically, the coastal areas should be considered part of the General Plan planning area. Please explain the how the coastal areas and population were included in the DEIR analysis. Please be specific, and identify every place in the DEIR where the coastal areas were included in the DEIR analysis.

Table 3-13

See comments above regarding the 2006 estimate, which also apply here. Please respond. The note is ambiguous in its reference to it "not including areas within the incorporated cities." According to the previous page (3-24) there are unincorporated islands that are "within incorporated cities." Please explain whether the population figure includes or excludes Urban Reserve areas. Please correct the ambiguous note.

266

Why does the County not acknowledge the limitations on development in the Highway 68 area due to the overdrafted Seaside Basin? That would change the assumptions and estimates.

What does the DEIR mean by the term "sufficient water supply"? As used in the GPU5 and in the DEIR, please define it in detail, and identify the source(s) for the response, including page numbers of the sources. Does the term mean that the growth would not cause any new environmental impacts, or could exacerbate an existing overdraft but the County would still approve the project, or what exactly? The standard of "sufficient water supply" is a critical issue for the County, and how it is defined makes a big difference. It is a subjective and ambiguous term.

3.4.5.3

The Paraiso Hot Springs STA would allow "mineral water bottling" (p. 3-30). Where is the analysis of that proposed use? The DEIR analysis should include water demand, impact on the overdrafted Salinas Valley Aquifer, the precedent-setting nature of exporting water out of the basin, and cumulative impacts. This issue should not be deferred to the project-level EIR, because under CEQA the policy decision in the GPU5 to allow mineral water bottling is when the analysis should be done: at the earliest possible stage. The DEIR should consider the following mitigation: prohibiting mineral water bottling, or limiting it to a very low amount after it is proven scientifically to not have an effect on any aquifer relied on for on-site uses.

267

The Old Mission School STA description is odd because it omits any public hearing or public review process for the facilities. Would not the facilities project be a project under CEQA? Please explain.

268

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 76

The Lohr STA description is markedly different from the other STA descriptions because it does not state what uses are proposed for the STA. Without that information in the project description, the public cannot comment on the STA or its impacts.

268

3.4.5.4

What is the DEIR's purpose behind listing specific "distinct geographic features" or "distinct geographic areas"? The DEIR describes this issue differently for the Greater Monterey Peninsula than for the other area plans. The other plan descriptions address specific geographic features. Instead, the Greater Monterey Peninsula discussion seems to throw random names of areas onto a list, which is confusing, and indicates that the EIR preparer does not understand the area and is hazarding guesses about it. Please address.

The "distinct areas" are *demographic* areas more than geographic. What were the criteria for listing distinct features within each area plan? Who chose which features were to be listed? What is the importance and impact to the DEIR of choosing one type of distinct area over another?

Why does the DEIR separately identify some "distinct geographic areas" but not others that are equally distinct, such as the Highway 68 corridor and slopes, or Jack's Peak, or outer Carmel Valley/Cachagua, or others? What is meant by the odd reference to "Aguajito" as a distinct geographical reference? In our experience, Aguajito is not a reference that is understood by persons who have lived on the Monterey Peninsula for generations. Aguajito is a road which goes from the flatlands to Jack's Peak and emerges on Carmel Hill. In what way is the Monterey Peninsula Country Club a distinct geographic region? It is no more distinct than other inland portions of Pebble Beach, which is omitted from the list of "distinct geographic areas."

269

On the other hand, true distinct geographical areas are entirely omitted, like the Carmel River, the ridge between Highway 68 and Carmel Valley, specific aspects of Carmel Valley, etc.

This comment applies to the entire project description: The DEIR descriptions of and references to the Special Treatment Areas are unintelligible. The DEIR does not list the STAs by number. However, the maps refer to them by number only.

The individual DEIR project descriptions do not refer to each STA by number. Instead, the DEIR refers to each project by name only (for example, "White Rock Club"). This is confusing for the public, because the GPU5 describes the STAs by policy number. Each time the DEIR discusses an STA, the DEIR should identify the proposed GPU5 policy number, the name, and the map location.

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 77

Further, if the public wants to see the GPU5 policies that are being analyzed in the DEIR the public has no guidance where to find the reference to the STA in the GPU5. The DEIR does not refer to GPU5 policies that it is relying on for the project description. If the public eventually tracks down the relevant GPU5 policies, that information does not help much, because the hunt for information is not over until the public can find the specific location on a map.

For example, in searching the GPU5 for the White Rock Club, the public eventually may find it as GMP-1.7. But the public still does not know the location of the White Rock Club. So the public turns to the appropriate map in the DEIR: Exhibit 3.7, Greater Monterey Peninsula Area Plan Land Use Map. But on that map, there is no mention of the White Rock Club, or GMP-1.7.

In other words, it is impossible to determine where the specific STA is located.

269

Similar problems exist in throughout the project description, and makes it impossible for the public to understand which treatment area is being discussed, what the different ST references mean, which land use or area plan policy is being relied on. For example, the Exhibit 3.8 identifies multiple areas with an "ST" in a circle, and identifies them only by CV-1.22, 1.23, 1.35, 1.26, 1.27, 1.28, and others, but there is no list of what each of those numbers mean, and the numbers do not appear in the DEIR project description.

The DEIR does not even state where they are to be found in the GPU5 (after some effort to search the CD of the GPU5 electronically, those numbers cannot be found).

To make matters worse, the DEIR exhibits (maps) do not match the General Plan policies. For example, Exhibit 3.7 (Greater Monterey Peninsula Area Plan Land Use Map) identifies an area as GMP-1.16, another as GMP 1.17, and another as GMP 1.18. However, in the GPU5, the GMP supplemental policies are identified as GMP-1.1 through GMP-1.9. In an electronic search of the GPU5, there were no results for GMP-1.16, GMP 1.17, or GMP 1.18. To what are those references? Please explain.

270

Each of the maps should have a legend, explaining what is on each map. The DEIR is incomprehensible because the maps cannot be understood by the public.

271

3.4.5.5

Regarding the Rancho Canada Village STA, the DEIR description of the project (p. 3-33) is inconsistent with the GPU5 maps (Exhibit 3.7, Greater Monterey Peninsula Area Plan Land Use Map, and Exhibit 3.8, Carmel Valley Master Plan Land Use Map, including detail). The maps shows the STA to encompass a far greater land area than that described in the DEIR. The maps also shows the STA as extending to and

272

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 78

O-21k

including Highway One and encompassing a large residential and industrial area, all of which is omitted from the DEIR project description. Please clarify the correct STA boundaries, and provide maps large enough to show the boundaries clearly.

Also, regarding the Rancho Canada Village STA, what the map shows as "industrial" (pink) is actually in commercial land use (shopping centers at the mouth of the Valley). Is the map "industrial" designation correct?

In general, where a verbal description differs from a depiction on a map, which version controls? Please respond separately as to the DEIR and as to the GPU5.

Why are study areas not included in the project descriptions of the area plans? The study areas have the potential to change the areas significantly, but the DEIR ignores them.

Why are all areas designated as Special Treatment areas by the "ST" in a white circle not described in the discussion of each area plan? Please answer as to each area plan.

As one example, there are several special treatment areas proposed for Carmel Valley that are not even mentioned in the project description discussion of the Carmel valley master Plan area (pp. 3-32 and 3-33). Please explain. Do you think that those special treatment areas will not have environmental impacts? What is the impact on the DEIR analysis of omitting those areas from the project description?

3.4.5.8

The description of the Syndicate camp appears to be current as of 1994, 14 years ago. That does not meet CEQA's requirement of the current, on-the-ground conditions.

3.4.6

The project description of the AWCP is confusing. Are there any limitations on the size of the single family residence, guesthouse, and three employee housing units? Are there any limitations on the use or ownership of any of the residential units? What does it mean that "each winery would be allowed a single-family residence, a guesthouse, and as many as three employee housing units"? Could the employee units be sold or rented to non-employees? If so, does the traffic analysis discuss those impacts? Where would those residential units have to be located – on the same parcel as the winery, or on a parcel under the same ownership as the winery, or within a certain distance, or what? In other words, would the development be clustered, or spread out, or managed in any way?

272

273

274

275

276

277

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 79

O-21k

Where is the DEIR analysis of the land use impacts of these residential units?

How many visitor centers would be allowed? Is there any size limitation to the centers?

Are there any restrictions on the eight new inns that would be allowed? Could they be Holiday Inns with 250 rooms and complete amenities (pool, restaurant, large parking lot, etc.)?

The text discussion on p. 3-40 is very confusing. We cannot tell what it means. It is one of the few instances where the DEIR discusses process and implementation of proposed GPU5 policies. Why is the process and implementation not discussed for other GPU5 policies?

What does "some type of discretionary permit" mean (p. 3-40)? What is the meaning and impact of the qualification "some type" to discretionary permits?

The proposal to exempt artisan wineries, full-scale wineries, inns, and residences from CEQA has far-reaching implications. Please discuss in full. Does the proposal have any precedent within the County?

Please identify all places in the EIR where the impacts of the exemptions identified above are discussed, and list each reference document used as part of the EIR analysis.

By exempting artisan wineries, full-scale wineries, inns, and residences from CEQA, there will be no further public review of those projects. The public would be excluded from any further review under CEQA. If it is to be relied upon to enable such a policy, this EIR should provide a project-level discussion of the projects that would be allowed under the policy. However, this DEIR does not provide an adequate project-level discussion.

Table 3-16

Would every winery (artisan and full-scale) be allowed "by right" to have private events such as weddings, meetings, conferences, and parties? If so, that should be explained, and the impacts analyzed (for example, to water, traffic, etc.), which they are not. To mitigate the impacts, the DEIR should consider a mitigation prohibiting or limiting such private events, using quantitative measures that are enforceable and ensure that impacts are mitigated, not qualitative measures that are subject to interpretation.

277

278

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 80

O-21k

Are administrative permits subject to CEQA review under County rules? This issue should be disclosed, and the impacts of that information should be fully discussed, given how much they would be used here.

What does "ag- or winery-related visitor serving use" mean? It is not described in the AWCP project description. Would it include any of the following uses: (1) a gas station; (2) a motel; (3) a McDonald's; (4) a water park with an agricultural or vineyard theme; (5) a hotel/conference center that offers local wine tasting, (6) a golf course, (7) a spa resort, (8) water features such as fountains or ponds, (9) a mini-mart, (10) a car rental business (including a large parking lot for rental cars)? For each response, please identify (a) the specific policy(ies) in the GPU5 that would control the use, and (b) the DEIR analysis on which you rely. We cannot find in the DEIR an adequate discussion of the potential kinds of uses that would serve as an "ag- or winery-related visitor serving use", or the impacts of allowing those uses without further CEQA review. In your response, please define the actual use that is being proposed, including existing GPU5 limitations on that use, and mitigations proposed by the DEIR to mitigate the impacts of the use(s).

Visitor centers are not listed in the Table 3-16, but are described in the text. Please be specific as to what would be allowed, and please define the actual use that is being proposed, including limitations on that use. Please make the language of the text and table internally consistent.

Would the proposed "visitor centers" be exempt from CEQA? We do not see any limitations on the size or nature of those centers.

Would "ag- or winery-related visitor serving uses" be exempt from CEQA? Neither the text nor the table address that issue.

3.4.10 Special Treatment Areas

The listed areas appear to be missing multiple STAs and Study Areas. For example, the former Carmel Valley Airport are is missing from the list, even though it is clearly identified on Exhibit 3.8 as an "ST with the designation CV-1.27. We should not have to identify all the missing areas. Please provide a complete list.

3.4.11

The Airport/Hwy 68 site is not east of Highway 68 – it is south.

Exhibit 3.7 - Greater Monterey Peninsula Area Plan Land Use Map

On the Monterey Area Detail, what is the meaning of the orange color with grey diagonal lines across it (shown on the left of Detail)? What is the meaning of the beige

278

279

280

281

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 81

O-21k

color area with diagonal grey lines? There is no definition in the legend of grey diagonal lines. The grey lines is clearly distinct from the black lines, as can be shown from the black horizontal lines on the same Detail. The black diagonal lines are shown as Urban Reserve, but the diagonal lines are definitely not black. Please explain and clarify and redraw the map as necessary.

Olmsted Road is misspelled.

Would the housing be required to be permanently affordable? If not, what are the impacts of allowing the houses to not be affordable after a period of time? After the cessation of the affordable period, what kind of development would be allowed on those parcels?

3.4.12 -- Routine and Ongoing Agriculture

Will the ordinance establishing the list of Routing and Ongoing Agricultural Activities be subject to CEQA? Would CAFOs be allowed? Would the raising of fish be allowed, even if it affected the natural habitat or threatened species?

The discussion including the bullet points on the bottom half of page 3-47 because the DEIR does not make clear that it is paraphrasing the bulleted policies identified by number. The DEIR does not quote the policies. In several cases, the DEIR paraphrase is inaccurate or misleading. Please quote the policies in quotes, so the public knows what is the underlying GPU5 policy and what is the DEIR discussion. As written, it is unclear.

What "agricultural and processing facilities or facilities governed by the AWCP" (p. 3-47) would otherwise qualify as routine and ongoing?

What does "steep slopes" mean (p. 3-47)? Please be specific, quantifying the steepness and the slope acreage.

Where is the DEIR analysis of the proposed exemption of Routine and Ongoing Agricultural Activities from policy "OS-3.5 -- regulate development on steep slopes"? In your response, please provide citations to specific page and section numbers. This is a critical issue that would have significant adverse impacts. The DEIR addresses the issue and impacts inadequately.

The discussion of OS-3.5 is an example of where the DEIR discussion is misleading and confusing. The DEIR states, after bullet OS-3.5, "This would apply to routine and ongoing conversion of previously uncultivated lands."

- What does that sentence mean? It is ambiguous -- does it refer to the policy OS-3.5, or the exemption, or what?

281

282

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 82

O-21k

- What does "this" refer to? Please define and clarify.
- What does "routine and ongoing conversion" mean? Please define and clarify.

282

Exhibit 3.15 – Chualar Community Area Aerial Map

The map states that the boundary will be established at a later date pursuant to LU-2.23f. There is no policy LU-2.23f. Policy 2.23 states that "Community Areas shall be designed to achieve a sustainable, balanced, and integrated community" using some very general parameters that are listed. The policy is for the design of Community areas, not for the location and boundaries. The location and boundaries must be chosen first, before the area can be designed. The DEIR has not – and cannot – analyze the impacts of a development that is of unknown size, unknown location, unknown purpose, unknown uses, and unknown intensity. The public has been left out of the process. If the boundary is established later, that will result in a piecemeal impact analysis, which CEQA prohibits. Please respond in detail.

283

Does the GPU5 propose to prioritize uses for the County's limited water resources? For example, among agricultural, residential, commercial, and environmental needs for water, does the GPU5 present a hierarchy as to which need(s) should receive water ahead of other need(s)?

The EIR should consider a mitigation that prioritizes all new water to be applied first to eliminating the overdraft in the appropriate basin (for example, the basin that is the source of the new water), and then either to eliminating the overdraft in adjacent basins, or to new development. The EIR should consider another mitigation that prioritizes new development that would be eligible for new water that becomes available after the basin overdraft is addressed (in other words, after the basin pumping does not exceed recharge).

SOLID WASTE AND WASTEWATER

The Draft EIR's analysis of solid waste and wastewater is incomplete and inadequate. The DEIR conclusion that there will be less than significant impacts is based on generalizations that do not adequately take into account water quality, and actual potential development which would require additional wastewater and solid waste treatment.

284

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 83

O-21k

Waste Diversion State Compliance

The DEIR states that waste diversion rates "have fluctuated and have begun to drop in recent years." According to the DEIR, the waste diversion rate in 2006 was 50 percent. (P. 4.11-8.) This is not current information. The DEIR conclusion – that Monterey County is *currently* in compliance with the State requirement that each jurisdiction achieve a waste diversion of at least 50 percent – is contradictory to statements made in the DEIR. This data was current in 2006, it is now 2009. If rates had begun to drop, and Monterey County was barely at compliance in 2006, the conclusion stated is not supported. Please provide the reference documents that were relied upon to make this conclusion and all analysis which led to this conclusion. Please also investigate and disclose the current rate of waste diversion for Monterey County and all analysis of the impacts of decreased waste diversion.

285

According to the DEIR, future generation of solid waste would result in non-compliance with State requirements. The DEIR states that "outreach efforts associated with recycling and waste diversion programs are being implemented." (P. 4.11-8.) Please explain what "outreach efforts" are being implemented, the source of this information, and what impacts the efforts have had. Please describe the specific programs, the impacts these have had. Please provide the individual "outreach efforts" that have had an impact on State compliance and whether it was a positive or negative impact. For the efforts that have not had an impact on State compliance, please explain in detail all mitigation measures in the DEIR which will positively impact Monterey County's compliance rate, and how those mitigations will be measurable and publicly accountable.

Wastewater

The sources listed in the hard copy of the DEIR released by the County are inconsistent with the County's updated list of Section 11 reference documents. This inconsistency makes it very difficult to understand the DEIR wastewater analysis. Due to the inconsistencies, the existence and the accuracy of the data used in the DEIR cannot be verified by the public. This information is necessary for the public to understand the EIR preparer's analysis, investigation, research and conclusions.

286

For example, Table 4.11-4 Municipal Wastewater Disposal in Monterey County in the hard copy of the DEIR states its source as the "Association of Monterey Bay Area Governments 1999." The updated Section 11 list of reference documents does not list this document as a reference used in the DEIR. The Citation and Text Errata document added December 6, 2008 does not provide any explanation for the source of the data either.

The Open Monterey Project – Comments on Draft EIR for GPU5 O-21k
February 2, 2009
Page 84

What is the document that is the reference described as "Association of Monterey Bay Area Governments 1999?" Where do the statistics used in the DEIR come from? The public should be able to confirm that this is the actual data provided by the source and to confirm that the data is accurate. As presented, that is impossible for the public to do.

Please explain why the DEIR does not use current data that accurately reflects current conditions. If the data in Table 4.11-4 is accurate and true of current on-the-ground conditions, please describe all research, investigation and analysis which led to this conclusion. Please provide current statistics and the impacts that the proposed Plan will have on the current on-the-ground conditions.

The DEIR does not comply with CEQA Guidelines section 15148 which states that the "EIR shall cite all documents used in its preparation including, where possible, the page and section number of any technical reports which were used as the basis for any statements in the EIR." The DEIR cites multiple technical documents in the Section 11 references, but does not specify in Section 11 or the DEIR what information was relied upon. It is very difficult for the public to guess what information the EIR preparer used and to verify that this information is accurate and reliable. For example, on page 4.11-28, the DEIR cites to "Monterey County Environmental Health Department *Subsurface Disposal System Design Criteria-1/18/08.*" The DEIR does not cite to the page or section number of this many page document. In fact, the Section 11 reference link for this source says "The page cannot be found." The Citation and Text Errata did not have information about the source of the data, or the data. There are many additional sources with this same issue. The public cannot access the data relied upon in the DEIR, or the analysis the EIR preparers used to reach their conclusion. Please provide in detail the actual sources for all data presented in the tables of the DEIR and the location of the sources. Please be specific.

The data in the DEIR cannot be verified for accuracy without the actual source used. The DEIR fails to identify many of its sources. As one example, on page 4.11.2.6, the DEIR states "The wastewater treatment plant capacity is 4.0 MGD (about 1.2 acre-feet per day) and current demand is 1.7 MGD (about 5.2 acre-feet per day)." Please provide the sources for this statement. According to the DEIR, wastewater treatment plant capacity exceeds current demand. Therefore, the DEIR's conclusion that wastewater will have a less-than-significant impact is not supported by the DEIR's own analysis. Please investigate and respond in detail.

287

The Open Monterey Project – Comments on Draft EIR for GPU5 O-21k
February 2, 2009
Page 85

Agricultural Wine Corridor Plan

Waste Water

The DEIR states that the Agricultural Wine Corridor Plan (AWCP) would eventually result in 40 new artisan and 10 new full-scale wineries by 2030. The DEIR fails to adequately consider, quantify and analyze of the wastewater production impacts.

The DEIR fails to adequately analyze the potential impacts of the wine corridor residential, industrial and commercial development and its effects on wastewater treatment needs. A general conclusion that new treatment facilities will be needed may be true, but is not adequate. Please provide specific information about planned treatment facilities for the AWCP, including location and infrastructure. Please describe the specific impacts of both residential, industrial and commercial wastewater. Please provide a quantitative analysis supported by accurate data with specific references to source documents. If, after investigation, the EIR preparer determines that no accurate data is available, please discuss the reason for the omission of this critical information and the documents the EIR preparers analyzed to reach this conclusion. Because this is the only time that the AWCP will be required to undergo complete CEQA review, it is necessary investigate and analyze the specific impacts of additional treatment facilities now.

The DEIR does not quantify daily disposal rates "because they depend on the level of wine production." What research led to this conclusion? What documents were relied upon? What levels of wine production were analyzed to determine that daily disposal rates could not be quantified? Why cannot the DEIR provide a reasonable range of disposal rates based on its research? Please respond.

The DEIR states that, "In all cases, disposal of these volumes of wastewater would require engineered wastewater treatment systems." However, the DEIR does not provide any potential impacts, describe or analyze the impacts of additional engineered treatment systems in the AWCP. The projected future development, diversion needs and impacts, including cumulative impacts, should be analyzed now.

Solid Waste

The solid waste expected to be generated by the AWCP cannot be analyzed until accurate data is used, which the DEIR has not done. Table 4.11-5 in the DEIR is not accurate. It does not account for actual potential productivity, and therefore, a conclusion that there is adequate landfill capacity to meet the short-term and long-term needs of the wine-related facilities is not supported. Please identify and quantify the individual "short-term" and "long-term" needs for the AWCP. Please describe all research and analysis used to determine the short-term and long-term needs of the

288

289

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 86

O-21k

ACWP. Please also provide the DEIR's analysis solid waste impacts for the residential and commercial development in the AWCP. 289

Exactly what are the wastewater impacts? The DEIR does not provide quantitative analysis of them. Please describe the impacts of water quality and availability on wastewater. Please provide the reference documents and the complete analysis done with respect wastewater impacts in the AWCP.

The DEIR states that several Area Plan supplemental policies address wastewater. Please provide specific information as to how these plans address this issue, citing the specific Plan policies, and how they vary. The DEIR's conclusion that specific environmental impacts cannot be determined with any certainty, and are only addressed at a general level of detail, is inadequate. The DEIR should make a reasonable effort to analyze specific impacts. How was a significance determination made by the DEIR when impacts were analyzed only at a general level? Again, what are the specific future impacts? 290

The DEIR fails to discuss the impacts on biological resources. For example, the DEIR concludes that "Assuming that they will be located in Community Areas or Rural Centers, they would have a limited potential to adversely affect biological resources." What maps, data, research and analysis is this assumption based on? Please be specific in your response. The DEIR does not analyze the specific biological impacts created by additional development and associated facilities. Quantitative analysis of the issues and resulting impacts is critical. The DEIR cannot provide adequate mitigation measures if it fails to adequately analyze and assess the impacts. 291

The DEIR makes the conclusion that prospective winery-related wastewater treatment facility sites would be likely to have "low habitat value." Please define the term "low habitat value" because it is confusing. Please provide the research and analysis this definition is based upon. Please provide all sources for this DEIR conclusion as to facility sites, show locations on the map that would be available with certainty for wastewater treatment facility sites, and provide all support for the claim that these sites would have low habitat value today, in 2009. Further, even if something is "likely" that may mean less than 50% chance. The DEIR fails to adequately investigate this siting issue, or to research and disclose potential impacts. 292

In its Significance Determination, the DEIR fails to adequately discuss CEQA compliance for wastewater impacts. The DEIR avoids this discussion and instead makes blanket statements. The DEIR states that "expansion of a treatment plant would have to minimize impacts through the CEQA compliance." (P. 4.11-31.) Because this is the only time that the AWCP will undergo CEQA review, the specific impacts must be analyzed now. Expansion of a treatment plan cannot be left for future discussion. Please describe the research, investigation, and mitigations proposed in the DEIR 293

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 87

O-21k

which specifically address this issue. We cannot find adequate research, investigation, or mitigations. 293

The wastewater production described in Table 4.11-7 does not account for the likely increase in production exceeding DEIR statistics. The DEIR's estimation of what would be expected appears to be inaccurate because the DEIR makes assumptions about wastewater production. The DEIR concludes that wastewater will have a "Less-Than-Significant-Impact," but the data is incomplete and the analysis is unreliable. Please describe the investigation of accurate statistical information for this table, provide the sources of this data and all analysis done to create this table. The DEIR does not provide a quantitative analysis to reach its "Less Than Significant Impact" conclusion. The data should account for variance and address the future range of impacts that wastewater and treatment plans will have. 294

CLIMATE CHANGE

4.16.5.3 – Impact Analysis: Contribution to Global Climate Change.

The DEIR analysis of environmental impacts is incomplete and inadequate because it makes assumptions unsupported by evidence and conclusions based on those assumptions. 295

Agricultural Emissions (page 4.16-22)

The DEIR analysis of agricultural emissions does not adequately consider additional agricultural emissions in Monterey County for 2030 and buildout. The reason given in the DEIR for not considering additional agricultural emissions is that no expansion in agricultural development is projected because no additional agricultural employment is forecast. The DEIR does not explain why or in how trends in agricultural employment correlate to agricultural development. Please explain. Please see comments elsewhere in this letter on this issue, relative to vineyard expansion. For example, the increased acreage made available to agriculture under new GPU5 policies, as well as more relaxed toward routine and ongoing agricultural activities, will lead to additional agricultural development. 296

The DEIR provides no supporting research and makes an assumption that agricultural employment is a reliable indicator of agricultural development. The DEIR does not explain why it used agricultural employment to project agricultural development, what other means were available to project development and why they were not chosen. Please provide all sources, investigation, research and analysis that the DEIR used in reaching the conclusion that agricultural employment is a reliable indicator of agricultural development. Please explain what other data, means and methods were available to project agricultural development and why they were not chosen.

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 88

O-21k

Further, agricultural development can expand and associated GHG emissions can increase without a corresponding increase in agricultural acreage. Please provide support for the statement of "no change" for agriculture on page 4.16-19 due to the assumption that there will be "no overall change in agricultural acreage" is inaccurate.

The DEIR does not explain how it would quantify and qualify agricultural emissions resulting from agricultural development. The DEIR attempts to avoid answering this question by making the unsupported and possibly incorrect assumption that there will be no increase in agricultural emissions due to lack of agricultural employment or development. The public needs to know how the DEIR will effectively analyze agricultural emissions' environmental impact on Monterey County environment. Please investigate, redo the analysis, and present your data, findings, assumptions and conclusions.

The DEIR does not explain the method(s) used in determining the amount of agricultural emissions from a particular development project. Please explain those methods and supporting your explanation with your research, analysis, and sources, including page numbers.

The DEIR's statement that no new agricultural development is projected is not consistent with its statement in a different section of the DEIR that the Agricultural Wine Corridor Plan (AWCP) would eventually result in 40 new artisan and 10 new full-scale wineries by 2030, and that the AWCP may encourage new vineyards. Please explain why the DEIR did not consider the projected increase in the number of wineries in the AWCP in its conclusion that no new agricultural development is projected. The DEIR also did not consider the AWCP-related vineyard development, as described in the DEIR, or the new policies on steep slope development, agricultural conversion, and routine and on going agricultural exemptions. Please consider and analyze the environmental impact of the agricultural emissions that will result from these wineries and other agricultural development.

The DEIR's statement that "traffic, electricity demand, and direct energy use for agricultural sector, including the new wineries is taking [sic] into account broadly in the calculation of vehicle emissions and of growth in electricity and direct energy use related emissions" is unclear in how agricultural-related emissions were quantified and qualitatively factored into the broad picture. Please explain the process the DEIR used to quantify agricultural-related emissions so as to then be able to take them into account "broadly" in calculating emissions. Please state the specific amounts of agricultural-related emissions that were identified and quantified, and incorporated into the broad picture.

296

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 89

O-21k

Emissions Associated with Land Use Changes (page 4.16-22)

The statement in the DEIR that "Development allowed by the 2007 General Plan would result in the conversion of natural vegetation and agricultural lands that would result in the loss of carbon sinks" is unclear. Please explain to what uses natural lands, agricultural lands, or both, will be converted, and identify the locations of the lands so converted. Please provide specific citations to the GPU5 where it discusses conversion of specific parcels of land. If the GPU5 does not discuss locations of land conversion, please provide a detailed analysis of the effect on Monterey County's environment resulting from such a lack of specific provisions, and the likely locations.

The DEIR states that "Given the uncertainties associated with estimated GHG fluxes associated with natural vegetation and agricultural lands, the potential loss of carbon sinks was not qualified, but would nevertheless contribute GHG emissions along with other sources." This statement seems contradictory as "estimated GHG fluxes" connotes that an estimate of the high and low possible fluctuations exists, but the DEIR has dismissed discussing these figures due to unexplained "uncertainties." Please explain why there are "uncertainties associated with estimated GHG fluxes associated with natural vegetation and agricultural lands," and quantify and evaluate the uncertainties.

Please provide the "estimated GHG fluxes." Please estimate the potential loss of carbon sinks as a result of the GPU5 (such as by creating "best-case" and "worst case" scenarios) and analyze the loss of these sinks on Monterey County's environment. The DEIR should make a good faith investigation and estimate of the loss of carbon sinks. This investigation should include calculations of the loss of vegetation due to GPU5 policies, including GPU5 Policy OS-3.5 and the AWCP.

PUBLIC SERVICES

Table PS-1

This table fails to define "long term water supply" and the DEIR fails to investigate or point out the possible impacts that may result from the failure to define the term. The DEIR should propose a mitigation that defines the term "long term water supply" in quantifiable terms, including objective measurements and standards. That term is inconsistent with the terms used in Public Service policies; the DEIR fails to investigate this issue, the various interpretations, or the impacts of the inconsistency.

As a general comment on a significant issue that the DEIR fails to identify or discuss, the DEIR fails to investigate the various phrases and terms used by GPU5 policies regarding water supply. The GPU5 and Area Plan policies are very inconsistent, and not determined. For example, the Central Salinas Valley Area Plan policy CSV-5.2 uses the term "safe, long-term yields" without defining the term. That is

297

298

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 90

O-21k

a different term than "long-term water supply" and many similar terms used elsewhere in the GPU5 and Area Plans. The Salinas Valley policy qualifies the policy, by adding "safe, long-term yields" the following "where such yields can be determined." The DEIR fails to understand these important terminology implications, or the impacts thereof, because it mischaracterizes policy CSV-5.2 as allowing uses "only if it can be proven that they . . . would not overdraft existing groundwater supplies" (p. 4.3-125). That is not at all what the policy says. The DEIR in many places misleads the public by inaccurate use and/or understanding of key terms.

298

Table PS-2

It is not clear where Table PS-2 is incorporated into any GPU5 policy, or where the DEIR analyzes it or the associated policy. Please explain.

299

Also, the DEIR does not investigate why a project with an existing or available water connection would be allowed to drill a well, given the policies that encourage coordination and consolidation of water systems and pumping (e.g., PS-2.1, 2.3.). Additionally, the DEIR fails to investigate the definitions of "available" and "unavailable" mean, or to propose a mitigation that defines those terms.

AGRICULTURE

Goal AG-4

The DEIR fails to adequately assess or investigate the impacts of Goal AG-4 and policy AG-4.1, which requires the County to support "the development of a fully integrated wine industry." This policy mandates the County's support, and places no limits on that support. That is problematic: if the County turns down, limits, or places conditions on a permit for a vineyard or a wine tasting room or a winery, would the County be violating policy AG-4? If the County places restrictions on the steep slope cultivation permit process for ag conversion, or discourages development of a vineyard due to environmental concerns, would the County be violating policy AG-4?

300

The DEIR should consider a mitigation that eliminates policy AG-4. As an alternate mitigation, the mandatory effect of the policy should be limited or qualified to allow the County its full discretionary authority.

PARKS

The proposed policies called "Adequate Public Facilities and Service standards, that will be used to obtain park and recreation facilities along with residential subdivisions and require that Community Area Plans identify adequate park and recreation facility sites" do not establish a specific level of service for parks and recreation facilities. This omission means there are no metrics to measure their

301

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 91

O-21k

effectiveness, and they may not be effective at all, or at a very low level. The DEIR analysis should present measurable objective standards, and be revised accordingly. The DEIR should consider a mitigation that establishes specific levels of service for parks and recreation facilities.

301

ALTERNATIVES

The entire Alternatives analysis is inadequate under CEQA. As one example, the analysis chooses to weight some policies over others without describing the standards by which the policies are measured in the DEIR, without quantifying their effects, and using arbitrary and conclusory statements. As another example, because the project analysis is inadequate, the Alternatives analysis does not adequately -- and cannot -- compare the project's impacts with the alternatives' impacts.

302

The DEIR paraphrases the legal requirements of CEQA Guidelines section 15126.6 in section 5.1, thereby changing the language of section 15126.6 and imposing different tests than those precisely stated in the Guidelines. Why was that done, and what impact did it have on the subsequent analysis of alternatives? The DEIR should consistently apply the correct tests in the Guidelines.

The DEIR has an inadequate discussion of the inconsistency and tension between the two "project objectives" listed at 5-1 and 5-2:

- Provide direction for growth that . . . preserves as much of the County's scenic and environmental resources as possible
- Establish the AWCP to facilitate the development of wineries along a corridor in the central and southern Salinas Valley to achieve a balance between the wine-grape production and wine processing capacity within the County.

303

These two objectives have the potential to be at odds with each other, but the DEIR fails to address how the different alternatives meet one policy but not another.

The TOD (Transportation Oriented alternative) is confusingly described. What basic plan does it modify – the GPU5 or one of the four alternatives? The text does not state which one. There is mention of a "third tier" development plan, but no statement as to what the first tier and second tier are. It mentions Community Areas and AHOs, but those elements exist in several of the alternatives. There is no accurate description of this alternative.

304

In 5.3.2.1, what does the last sentence of the first paragraph mean? What impacts would be "significant and unavoidable" and what does the modifier, "Overall" mean in this context?

305

The Open Monterey Project – Comments on Draft EIR for GPU5 O-21k
February 2, 2009
Page 92

The conclusion of the third paragraph of that same section (one five-line sentence) lacks any underlying analysis. See pages 5-8 and 5-9. In that section, why does the DEIR state that "land use conflicts" have greater impacts on land use? What is meant by "impacts" in that analysis? 306

5.3 – 1982 General Plan (No Project Alternative)

On what basis did the EIR conclude that "the ACWP would authorize wineries within its boundaries that would enhance tourism and provide additional income to wine grape growers" (p. 5-9)? This is an unsupported conclusory statement. There is no evidence that the ACWP would provide additional income to growers, who presumably are already selling their grapes. 307

The 5.3.2.2 discussion at pp. 5-9 and 5-10 is not understandable, and makes conclusory statements. On what basis did the EIR conclude that "the 1982 General Plan would have greater impacts on agricultural lands than the General Plan 2007"? The discussion does not necessarily lead to that conclusion. The discussion states that the 1982 General Plan will have lesser impacts on agricultural lands than the General Plan 2007 in some areas, and more in some areas. The DEIR fails to quantify the differing impacts, or explain how it ranked the differing impacts and arrives at its conclusion cited above.

For example, the DEIR acknowledges that "The 2007 General Plan . . . does not require that all [agricultural] buffers be permanent or dedicated in perpetuity" (p. 5-6) but then fails to analyze the impacts of that limited policy. If the benefits of the policy are not permanent, then what effect does that have on the environment, and on the DEIR analysis? 308

When the DEIR concludes that the 1982 General Plan has a "stronger buffer policy" than the 2007 General Plan Update, what are the effects of the comparative buffer policies? How much acreage is affected by the weaker buffer policy of the 2007 General Plan Update when the two plans are compared? Please quantify the impacts in terms of the amount of land, the location of the land, the present uses and future uses under a weakened buffer, and the impacts that are likely to be created by increasing development in areas currently protected under what the DEIR acknowledges to be "permanent buffers" under the existing plan.

The analysis at 5.3.2.3, the water resources impacts comparison of the 1982 General Plan with the 2007 General Plan, does not appear to address the proposed steep slope policies of the GPU5. This is an example of how the DEIR's failure to identify the policies under discussion leads to a confusing DEIR analysis. 309

Due to this material omission, the public cannot tell whether – or why – the analysis of specific policies such as allowing agricultural development of steep slopes

The Open Monterey Project – Comments on Draft EIR for GPU5 O-21k
February 2, 2009
Page 93

was omitted. Here, the failure to include them in the discussion is fatal, because the proposed policies would allow slope development that is not allowed by the 1982 General Plan. Those new policies would have severe adverse environmental impacts on water demand for agricultural development, soil erosion and sedimentation from agricultural activities, and water quality (e.g., pesticides and other toxics used in agricultural activities), both on site and on buffer properties, as well as in the larger surrounding communities. Those issues were not included or considered in the analysis, which should be revised, and the conclusion changed to reflect these impacts. 309

Additionally, the analysis at 5.3.2.3 fails to identify or discuss the impacts of the water supply mitigation measures proposed by the DEIR for GPU5. These impacts are significant and adverse, and may change the conclusions as to the comparison of the project and its alternative. 310

Under section 5.3.2.6, the analysis contemplates that LOS D would be adopted "as the standard for maximum allowable congestion within the County." In that section, you do not identify the current LOS, or explain how dropping the LOS to D either lessens or decreases traffic or improves transportation throughout the County. 311

The discussion under 5.3.2.9 is very unclear. It is unclear whether the 2007 General Plan has similar policies as the 1982 General Plan that "encourage the conservation and maintenance of native plant communities near new development and promote the conservation of large contiguous areas of native vegetation to provide wildlife habitat . . . [and] careful planning of areas that are of value to wildlife to maintain that habitat." Without that disclosure, and without the resulting analysis, the DEIR is not analyzing the actual impacts and is ignoring critical information. 312

In 5.3.2.9, the discussion of the addition of development on steep slopes throughout the County under the 2007 General Plan is grossly inadequate. In discussing grazing land, the DEIR throws in (but does not investigate, analyze or discuss) the existing "more restrictive policies" on steep slope conversion. How many acres of land could be developed solely as a result of "steep slope conversion" under the 2007 General Plan? Where is that land located (specifically)? What biological resources exist on those lands, and what is the cumulative impact upon biological resources? 313

As to 5.3.2.11 Public Services and Utilities, the EIR discussion is confusing. For example, it has a 14-line paragraph on the 1982 General Plan which addresses many issues, including these statements:

The 1982 General Plan includes policies encouraging coordination among water service providers to assure that groundwater is not overdrafted, prohibiting water-consuming development in areas that do not have proven adequate

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 94

water supplies, and requiring new development to connect to existing water suppliers, where feasible. The 1982 General Plan has not been effective in avoiding this significant effect.

That 14-line paragraph is followed by a single-sentence paragraph on the GPU5:

The 2007 General Plan, in comparison, would result in the same impacts from new or expanded services and infrastructure.

The single-sentence analysis of GPU5 omits a meaningful comparison of the 1982 Plan policies and issues described above (see indented quotation above). Those issues should be addressed in the DEIR comparison of alternatives.

What is "this significant effect" as referred to in the 14-line paragraph quoted above? We cannot figure out what is meant. The conclusion is very important, because it appears to refer to the effects of the failures of 1982 General Plan policies as to water, and the resulting current overdrafted and poorly managed water supplies we currently have. Critically, the DEIR fails to distinguish how the GPU5 policies, which are equally toothless and illusory, will be any more effective than the 1982 General Plan policies.

Following the single-sentence paragraph on GPU5, the DEIR goes on to discuss the potable water supply, but the discussion is misplaced – that discussion belongs under Water Resources, along with the indented quotation above. The DEIR confuses the difference between the natural resource (water) and the infrastructure necessary to deliver it (public services and utilities). As a result, the DEIR discussion is incomplete and incoherent.

The discussion fails to address the significant impacts of additional public services and utilities mandated by the DEIR water supply mitigations. Water projects of the magnitude necessary to meet the mitigation descriptions would have significant impacts, none of which are addressed here. If those were adequately analyzed, the 2007 Plan may have more adverse impacts.

As to the policies cited in the 5.3.2.11, please specifically cite (by page and policy number) each of the 1982 Plan and GPU5 policies that are relied upon by the DEIR. Without specific references, the DEIR discussion is slippery and unaccountable, and fails to meet the informational requirements of CEQA. It makes the comparison impossible to verify.

At 5.3.2.12, the DEIR makes a conclusory statement that "the No Project Alternative would not provide adequate levels of new parks." Please provide all information and analysis that led to that conclusion, which is not accurate. The 1982

314

315

316

317

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 95

O-21k

General Plan could provide adequate levels of new parks, and there is no evidence that leads inexorably to the opposite conclusion. 317

The DEIR conclusion at p. 5-17 is that

The No Project Alternative does not meet any of the objectives of the 2007 General Plan because it maintains the existing 1982 General Plan and does not update its policies or land use map to account for changing economic conditions, land use patterns, socioeconomic changes, or technological advancements.

Please describe specifically how the GPU5 "account[s] for changing economic conditions, . . . socioeconomic changes, or technological advancements," and how and why those parameters were used for the comparison and conclusion here. Please explain how these criteria are evaluated under the CEQA Guidelines.

The analysis fails to address the fact that steep slopes would be developable under GPU5 whereas such development was prohibited under 1982 Plan. The new GPU5 policy would have significant impacts on land use, water, biology, and other areas. The impacts analysis is missing from the alternatives analysis.

Section 5.4 – GPU3 Alternative

Under 5.4.1, the discussion fails to discuss adequately the critical difference as to several issues, including water, steep slopes, and biology.

Please explain exactly what references to tiers and phases mean.

The discussion is also confusing as to the County areas that would be affected. The GPU3 would affect the coastal zone. The DEIR analysis should discuss whether the GPU5 would affect the coastal zone, either directly or indirectly? This is an unclear issue mentioned elsewhere in these comments – whether the GPU5 includes the coastal zone in its figures, numbers, analysis of the Plan impacts, or cumulative impacts. The discussion here is equally vague. In 5.4.1.1, Table 5-2, does the number of dwelling units cited for each category include or exclude the Coastal Zone? Until this is clarified, the numbers are meaningless and the public cannot review the information.

The discussion of Water Resources under 5.4.2.3 is another example of how the Plan policies are compared with an alternative, and conclusions are made without quantifying impacts or defining the standards for the conclusion. The DEIR states:

GPU3 would prohibit development in 100-year flood plains, establish a Comprehensive Integrated Water Management

317

318

319

320

321

322

323

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 96

Plan, require long-term water supplies for new development, and expand the Watershed Permit Coordination Program. GPU3 also has strong policies protecting water resources in the Coastal Areas. GPU3 shares with the 2007 General Plan an increased demand on groundwater resources and potential for exacerbating overdraft conditions. It is unlikely that these policies would be sufficient to solve the water supply and overdraft problems identified in this EIR and therefore, GPU 3 would have a significant and unavoidable impact.

The 2007 General Plan policies, with the exception of the long-term sustainable water requirement, are less stringent. However, the proposed 2007 General Plan would restrict development in floodplains, limits development where there is no long-term sustainable water supply, and would establish groundwater overdraft monitoring systems.

The DEIR goes on to conclude that the water impacts of the GPU3 and GPU5 would be "similar." That conclusion is not supported, because the DEIR admits that the GPU3 policies were strong policies protecting the coastal area water resources (whereas none are mentioned to the GPU5), and that the GPU3 policies are more stringent. The few GPU5 policies mentioned appear to be the same as those in the GPU3. In fact, GPU3 appears to be stronger: it would prohibit floodplain development while GPU5 would merely restrict it; GPU3 would require long term water supplies for new development while GPU5 would merely limit development which did not have a long term supply. Therefore, it appears that the GPU5 impacts will be more severe than GPU3.

Also, the analysis fails to address the impacts on water resources of GPU5 policy allowing development of steep slopes, which is not mentioned in GPU3. Please address in detail.

As to 5.4.2.4, the conclusion is unsupported. There is no evidence that the GPU3 policies as to community areas and rural centers would place more people in areas of hazards than the GPU5. There is no evidence where those hazards are located, or whether they are near the community areas or rural centers.

Additionally, the discussion fails to analyze the erosion potential created by the GPU5 proposed steep slope development. That erosion potential may far outweigh the GPU3 impacts, but the DEIR fails to identify, analyze, or quantify it here or in the rest of the DEIR.

323

324

325

326

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 97

O-21k

Why does the analysis mention the County erosion control ordinance under both the GPU3 and GPU5 discussions? Elsewhere, the DEIR does not discuss existing ordinances. Why does it do so here?

Under 5.4.2.5, the DEIR discusses "southern Salinas Valley and South County." What is the difference between those areas? Please explain. According to GPU5 Figure LU#9, Southern Salinas Valley is south county.

What GPU3 policies would affect mineral resource production? Please be specific. Why would rock or mineral quarries also not be affected? Why were quarries not addressed? Why are GPU5 policies on mineral resource not identified for comparison? An alternatives discussion should compare the two projects being compared, not hold one project up, make a conclusory statement, and end the discussion, without any analysis of the comparable impacts of the other project, which is what the DEIR does here.

Please explain why the DEIR concluded that "extensive road widening" would be needed under GPU3. Please describe what investigation was performed prior to making this conclusion. Was the amount of road widening quantified? What about mitigations involving carpools, public transportation, alternative transportation, requiring residential development within walking distance to jobs, and other steps? Those would have reduced the amount of road widening needed, and reduced the indirect impacts.

It is not "reasonable to conclude that potential adverse indirect impacts from GPU3 would be greater to those of the 2007 General Plan because the former would allow more residential development in more places," because there is no analysis of where the residential development would be. If the development were more spread out, then it is possible there would be fewer traffic impacts because the impacts would be dispersed over a larger area. Once again, the DEIR makes a conclusory statement without bothering to investigate or disclose the quantitative information.

As to 5.4.2.9, the DEIR fails to compare the steep slope policies of GPU5 with GPU3. The steep slope policies would have significant adverse unmitigated impacts on biology, as discussed elsewhere in these comments and in the comments of environmental organizations, but there is no comparison here. The evidence indicates that the GPU3 impacts on biology would be less than those of GPU5, especially if the slope development were considered.

Further, there is no evidence that the CEQA process would mitigate impacts from individual development projects under the GPU5, because the GPU5 exempts huge swaths of land from further CEQA review – but allows extensive development on them – in the proposed Wine Corridor. There may be sensitive habitat and flora and fauna and wildlife corridors in the Wine Corridor, but the CEQA process would never be used to make any analysis of that acreage. The DEIR should quantify the amount of

326

327

328

329

330

331

332

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 98

O-21k

acreage that the Wine Corridor would exempt from further CEQA review, and how much maximum development on that land would be permitted without CEQA review. It should provide a baseline analysis and it should quantify the impacts. If the same development were proposed under the GPU3, the development would be subject to CEQA review, including an investigation and analysis of the habitat and other biological issues. 332

The DEIR should use consistent terminology in comparing the project with the alternatives. As an example, in 5.4.2.10, the DEIR concludes that the GPU3 "would avoid a significant effect" while GPU5 "would have a less-than-significant effect" on cultural resources. What if the difference between "avoiding a significant effect" and "a less-than-significant effect"? The DEIR should explain the terms, and clarify its meaning. What is the implication of using different standards? The issue is which have fewer impacts, and the DEIR's analysis does not provide the necessary investigation or information to support its conclusion. 333

Why does the comparison invoke "CEQA and state law"? CEQA and state law would be the same for either the proposed project or the alternative, so the inclusion is meaningless and potentially misleading. Please address, and please delete the references to CEQA and state law. 334

Additionally, why does the comparison invoke the adopted Historic Preservation Plan Ordinance? Presumably the GPU3 would have been implemented under the same Plan and Ordinance, but the DEIR did not credit it. If both were treated equally does the analysis change? Please provide your research and complete response. 335

As to 5.4.2.11, the conclusion that the public services and utilities "will probably be built within the cities, Community Areas, and Rural Centers that they would serve" fails to acknowledge the massive water supply projects that would be necessary under GPU5. 336

5.5 – GPI Alternative

Table 5-3 does not make sense, because the difference between 13,973 and 10,015 is not 5901. Please explain. In accordance with CEQA Guideline 15148, please identify on which page(s) of the source document this information is found. Is there a difference in dwelling units authorized by the two plans? In other words, does not one focus more on denser development, while the other is more spread out? This is important because different kinds of development have different impacts, which are neither investigated nor discussed in the DEIR. 337

As to the second sentence on page 5-28, for each part of the analysis that is based on the February 2008 BAE report, please identify the page(s) of that report, in accordance with CEQA Guideline 15148. 338

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 99

O-21k

As to 5.5.1.2, exactly what potential is there for the Coastal Commission to determine that the GPI land use element is inconsistent with the Coastal Act? Please provide your investigation and data regarding this issue, and point to the specific General Plan policies that might be inconsistent. 339

The 5.5.1.3 analysis of Agriculture Resources is flawed because it avoids any investigation or analysis of where and how growth would occur in the cities. Instead, it makes unsupported assumptions about expansion and density in order to arrive at its conclusion. There is no evidence that the cities would have to expand their boundaries in order to accommodate increased growth. There is also no indication that density of 9 units per acre are necessary. If the cities plan wisely and increase the density in the appropriate areas, then the cities can provide affordable housing that is densely planned and convenient to jobs or alternative modes of transportation. The DEIR failed to look at the policies of the cities' general plans, and to make a reasonable investigation of options. Please describe all of your assumptions, and the other reasonably possible assumptions that would or could change your analysis. 340

Please provide all support for your claim that in the Salinas Valley "there is sufficient water supply to serve projected growth to 2030." Where you reference specific sources, please provide the page numbers. To the contrary, the Salinas Valley aquifer is overdrafted. The supply is being unsustainably pumped, and further pumping will exacerbate the seawater intrusion and other existing water quality and quantity problems. Capacity is different from "sufficient water supply." Please explain your definition of "sufficient water supply" as used here, and describe all investigation you made into this issue. 341

Please provide the support for your conclusory statement that community and rural centers are generally less productive lands and grazing lands. Please quantify your response, and provide the sources for your data. 342

There is no data to support the DEIR conclusions that

development under the GPI and under the 2007 General Plan would result in similar levels of conversion and significant effects on agricultural land. GPI would have greater indirect effects on productive agricultural lands based upon the potential growth that would result in cities. 343

Please provide all the measurements and investigations made into these issues, and the criteria used by the DEIR to determine "similar", "greater," or "lesser" impacts.. The DEIR fails to provide the data, so its conclusions are unsupported. The public cannot adequately review the DEIR analysis and concluding until this information and 344

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 100

the DEIR assumptions about cities' growth are provided. This is an informational gap that prejudices the public's ability to review and comment on the DEIR. 344

Would the erosion control ordinance not remain in place under GPU5? If so, why even mention it here? 345

Please describe with specific references to the policy number, the water resources goals and policies in the GPU5 to which this analysis refers. The policies and goals are generally vague, and they have unavoidable adverse impacts on water resources, as this DEIR acknowledges. Why does the DEIR think they are environmentally preferable to the GPI? 346

Please explain why the GPI's policy of providing housing on lots of record in the unincorporated area would have greater impacts to water resources than the GPU5. In your response, please provide your data and the assumptions made about the quantification of water demand. 347

Please describe in detail how the GPI's impacts to water resources could be offset by the greater intensity of growth in the community areas and cities. This conclusory statement in the DEIR is not supported or explained, and the amount of offset is not quantified. Please provide the reference documents on which you rely, and the page numbers. 348

Further, if the GPI prohibits development without long term water supply, then there would not be increased adverse impacts to the water supply. Specifically what are the GPI policies on this point? Please explain why the DEIR did not include this in its comparison or analysis. 349

Please explain the metrics and standards used by the DEIR to conclude that the GPI would have a "slightly greater impact on water resources than" the GPU5. 350

Also, the water resources comparison analysis fails to consider differences of the water impacts caused by the steep slope development that would be permitted by GPU5, which could mean extensive water resources used for vineyards and steep-slope development. GPI would not allow this steep-slope development, and would in fact prohibit new agricultural development over slopes greater than 15%. The DEIR hides this important plan difference under 5.5.1.5 "Geology, Soils and Seismicity" but it has significant implications for other issues like water and biology. 351

Consideration of the relevant issues discussed above and in other public comments would lead to a finding that the CPI would have less impacts on water resources than GPU5. 352

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 101

The 5.5.1.7 Transportation analysis of the GPI alternative is also biased. The fact of traffic levels increasing does not necessitate a conclusion that there will be a significant effect. Because GPI would require concurrency of infrastructure, the increased traffic levels would be mitigated by the plan policies to a less than significant effect. The GPU5 has a goal of LOS D, which would be a far greater effect overall. 353

Please explain the conclusion on page 5-31 that there would be "sprawl of development on lots of record." Please provide a map showing undeveloped lots of record. Without that map, the public does not have the data to adequately review this unsupported conclusion. 354

As to 5.5.1.9 Noise, please explain what measurements you used to quantify (1) the difference in the number of growth centers, and (2) the intensity of growth of the more compact areas. Did you quantify the amount of noise in each? If so, please provide the metrics of your investigation. Please include all your assumptions in reaching your conclusion, and the citations to the reference and pages that support your assumptions and data. 355

The analysis of 5.5.1.10 Biological Resources is deeply flawed. It fails to acknowledge that the GPI's prohibition on conversion of hilly land to agricultural use would also reduce impacts on flora and habitats and wildlife corridors. Further without an analysis to the resources that exist on existing buildable lots of record, the conclusion that they contain potential special status species is speculative. Has the DEIR researched where potential special status species exist? It should, because this is a critical issue, given the valuable and sensitive resources in the unincorporated County. The DEIR should first obtain a documented understanding of the baseline for special status species, habitat, and corridors, and then map it carefully throughout the County. Only then, with a valid basis for comparison, should the DEIR attempt to compare the proposed Plan with others. 356

Please describe all assumptions and calculations used to arrive at the unsupported statement that "conversion on lots of record would potentially be greater" under the GPI (p. 5-32). Conversely, would not conversion of lots of record potentially be less under the GPI? Please provide your investigation into that possibility, and the data you found, and the specific source documents you researched. 357

Please also provide the same information requested in the previous paragraph for your conclusion that "there would likely be less development on lots of record that contain potential special status species up to the 2030 time frame under GP 2007" (p. 5-32). 358

Please identify exactly which "mitigation measures proposed in this EIR for protection of biological resources" you refer at page 5-32 and 5-33. 359

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 102

O-21k

This is yet another example of the DEIR's failure to refer adequately to the very project it is supposed to evaluate. The DEIR should refer to policies and mitigations with specificity, by number. Instead, virtually every time the DEIR makes a general unspecified reference to policies or plans, which means the public has to hunt through the poorly organized Plan. And the public's attempt to track down the vaguely referenced policies and mitigation is made almost impossible because the online and CD version of the GPU5 Plan (and the DEIR) can be searched only by opening up each section, searching it, closing it, then opening up another section, searching it, closing it, and so on.

360

If the DEIR is referring to the mitigations requiring an inventory of special status flora and fauna, that mitigation is illusory because there is no deadline for completion, no penalty for inaccuracy, and there is no limit to the amount of development that can happen before the inventories are complete. Please respond in detail. One approach would be to craft the mitigation to place a moratoria on all development until the inventories are complete. That would make the mitigations more effective. Please respond. Also, please state where the funding for the inventories will come from. If the mitigation is not funded, it would not be an effective mitigation. And if the mitigation is not timely relative to the development it ostensibly should control, it would not be an effective mitigation, either.

361

As to 5.1.1.11, please explain why the development of housing units is relevant to the analysis. Also, the DEIR fails to acknowledge that the Winery Corridor development would be exempt from CEQA review. That development could have significant impact on paleontological resources and Native American burial sites, but the impacts would not be known because there would not be CEQA review. CEQA review of projects in these areas would exist under the GPI; therefore, the GPI would have less impacts than that GPU5.

362

As to 5.5.1.13 Parks and Recreation, please provide the quantified data that supports the DEIR conclusion that "The area of future concentrated development in the unincorporated area is smaller under the GPI than under the 2007 General Plan." While this is true numerically (fewer designated development areas), what is the actual unincorporated developable acreage difference between the plans?

363

As to 5.5.1.14, please discuss how wildland fire protection is largely the state's responsibility. Please discuss what difference County policy would have in this area.

364

As to 5.5.1.15 Aesthetics, Light and Glare, the DEIR fails to include the additional impacts that would be caused by the extensive industrial, commercial and residential development allowed under the proposed Winery Corridor. Those impacts would mean the GPU5 has far more impacts than the GPI, which does not include the corridor policies.

365

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 103

O-21k

The 5.5.2 Conclusion has a discussion of "future employment grown and economic growth." Please discuss why this is relevant to the DEIR discussion of alternatives.

366

5.6 – GPU4 Alternative

The fourth bullet point under 5.6.1.1 should be clarified that the policy on conversion of land would apply only to Carmel Valley.

367

What are the consequences if, after adopting the general plan,

- the Greenhouse Gas Reduction Plan was not adopted within 24 months?
- the Capital Improvement and Financing Plan was not adopted within 18 months?

368

Please be specific in your response, and provide specific citation to the GPU5 to support your response. If there are no consequences, or ineffective consequences, then why are they mentioned? What are the impacts of the DEIR's considering them as effective policies, when in fact they are not?

What is a "non-discretionary commercial use"? See p. 5-39. Why would it be exempt from the concurrency requirement? What if the commercial use was a very large office building? The DEIR should explain this issue in full, and the impacts of the proposed policy.

369

As to Table 5-4 in section 5.6.1.2, should not the first asterisk refer to the GPU4? Also, why is there a second note designated by two asterisks? Two asterisks do not appear in the table. Also, the difference between the first and second columns is not the third column, and the difference cannot be explained away by using development permits, which the DEIR explains elsewhere are not at that rate. Please explain the figures in detail.

370

As to 5.6.2.2., please see our comments much earlier in this letter regarding the terms and clarification of "Williamson Act" lands. Later in the section, the DEIR refer to "Williamson Act contract" lands.

371

As to 5.6.2.3, if GPU4 would require "proof of availability of a "long-term, sustainable water supply, both in quality and quantity" to serve the development" (p 5-43), then why and how does the DEIR conclude it would have would have "a significant impact on water resources, primarily from its contribution to the existing severe cumulative effect on limited groundwater supplies and overdraft conditions." (P. 5-43.) Please be specific in your response, and provide references to the documents and pages on which you rely. It would appear that requiring proof of availability" as

372

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 104

described would prohibit any development that added to the cumulative effects as described. | 372

What is meant by the GPU5 policy that increased water demand would be "tempered" by Peninsula water restrictions? (P. 5-44.) Please explain in detail, and how and whether the water impacts would actually be any different in the long run. The DEIR uses the same "tempered" description of water use when the DEIR assumes that "policies requiring evaluation and approval of the adequacy of all new wells" would "temper[]" an "incremental increase in f[isic] water use (5-44.) Please quantify how water use is tempered in your analysis. | 373

Exactly where in GPU5 is the policy restricting development on slopes over 30% "unless there are no other feasible alternatives" (p. 5-45)? Please explain what is meant by "feasible alternatives" and provide specific, quantified examples, and supporting references for your response. | 374

As to the GPU4 policies regarding slopes, and the GPU5 policies regarding slopes, what is the side-by-side comparison and what are the different amounts of acreage that would be affected by the two sets of policies? Where are these sites? What is the baseline level of development at these sites? How does the level of increase permitted by the 2007 General Plan compare to the outcome with each of the alternatives? How can the DEIR analyze and weigh the different impacts of the policies without having this data? See pp. 5-44 and 5-45, for example. | 375

As to 5.6.2.6, the discussion of "non-discretionary commercial development" appears to mean "ministerial commercial development, as ministerial is defined under CEQA." Please clarify what commercial development would be made ministerial under GPU5. Would it include the extensive and unquantified commercial development in the winery corridor? Would it include agricultural development on slopes of 30% or greater, under some circumstances? If yes in either case, what are the impacts of the non-concurrency requirement, and where is the DEIR analysis of those impacts? The public does not know how to interpret the phrase, "ministerial commercial development" within the context of this DEIR, and there is no agreed-upon meaning of that phrase in this context. Specific data is required. | 376

Under 5.6.2.9 Biological Resources, the DEIR fails to discuss the different steep slope policies of the two plans, and compare their impacts. This analysis might change the conclusion. | 377

As to 5.6.2.14 Aesthetics, Light and Glare, the DEIR fails to identify or discuss the impacts of the extensive commercial, industrial, and residential uses that would be allowed in the proposed winery Corridor, in addition to the wineries. How would that change the conclusion, and by what metrics? | 378

O-21k

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 105

Please clarify whether a winery would be considered an industrial use under County codes and under the GPU5. | 379

5.7 TOD Alternative

Under 5.7.2, Table 5-5, why is the number of 2007 General Plan dwelling units in 2030 so much larger (21,666) than the same entry in the comparable tables for the other alternatives (10,015)? This larger figure, if accurate, raises questions as to each of the impacts. Also, please clarify whether the 6,500 units of target housing is a subset of or additional to the 21,666 units. | 380

As to 5.7.3.3, why does the DEIR keep referring to the grading ordinance? Other County ordinances are equally important with regard to the impacts of development, such as the subdivision ordinance, and health and safety regulations, but those are largely ignored by the DEIR. | 381

Other Reasonable Alternatives

The DEIR fails to suggest an alternative that is similar to the proposed GPU5 except that it would prohibit any intensification of steep slope development over the levels allowed in the 1982 General Plan. That would avoid many of the impacts of the proposed additional development of steep slopes. | 382

The DEIR fails to suggest an alternative plan that is similar to the proposed GPU5 except that it would not include a winery corridor, or would include one to a far lesser intensity and with the requirement that all development undergo project level CEQA review. That would avoid many of the impacts of the proposed winery corridor. Both those alternatives are reasonable and should be considered. | 383

The DEIR should also consider an alternative that minimizes that impacts on water resources such as prohibiting all further development in all overdrafted basins until additional, sustainable, adequate supplies are provided. This alternative would contemplate that as each basin comes into long term sustainable balance that the development moratorium would be lifted as to that basin only. | 384

Steep Slopes

As to the GPU5 policy that would set up an Agricultural Permit process. The GPU5 "sets out a list of criteria (i.e., water quality and supply, biological resources, cultural resources, erosion control, drainage, and flood hazards) that would be weighed to establish whether the agricultural permit might be ministerial." (P. 5-39.) Please describe who will weigh the criteria, and using what standards and measurements, and what accountability there would be for those applications, regardless of whether they are determined to be ministerial or discretionary. | 385

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 106

O-21k

Further, if the permit process is to allow any currently discretionary approvals to be demoted to ministerial status, then this DEIR should evaluate the project and cumulative impacts of that new policy, which would be a significant change from the situation on the ground in Monterey County. 386

OTHER MITIGATIONS AND POLICIES

The General Plan and the DEIR proposes numerous mitigations that require the adoption of policies and/or ordinances. Each of these known future policies/ordinances would be subject to CEQA should be evaluated in this document – at the earliest possible stage -- as to their impacts. The DEIR fails to do so adequately. 387

As to the proposed GPU5 steep slope policies, the DEIR fails to investigate the impacts of making the permits ministerial. For all GPU5 policies that propose to create a process for ministerial permits or administrative permits, or to exempt a process or permits from further CEQA review, the EIR must do an evaluation under CEQA of such a program or policy, because it would be a significant departure from current policy. The DEIR fails to provide the adequate review required under CEQA. 388

The DEIR should consider a mitigation of prohibiting development on slopes over 25%. That would significantly reduce the impacts of GPU5. The DEIR should also consider a mitigation that prohibits development on slopes over 30%. 389

Under GPU5, would the County's existing Erosion Control Ordinance be affected or changed? That is not made clear. 390

CONFLICTS

Based on their contracts with the County of Monterey and the Monterey Peninsula Water Management District (MPWMD), Jones & Stokes, preparers of the Draft EIR, have a financial interest in multiple projects in Monterey County that they purport to analyze in an unbiased manner, including the current Draft EIR for the General Plan. 391

Currently, active Jones & Stokes projects in Monterey County include contracts with the County for (a) the EIR on the 2007 General Plan for at least \$444,962, (b) a subsequent EIR for the Carmel Valley Master Plan for over \$342,169, and (c) preparation of the Rancho-Canada Subdivision EIR for \$398,508. Each of these projects is directly related and will have significant impacts on the issues now under public review in this GPU5 DEIR. In total, Jones & Stokes contracts with agencies in Monterey County total more than 1.5 million dollars. Jones & Stokes multiple financial interest in County land use project creates conflict of interests that cannot be denied. For example, the approval of the proposed Rancho Canada Subdivision is heavily dependent on the successful adoption of the proposed 2007 General Plan (see Carmel

The Open Monterey Project – Comments on Draft EIR for GPU5
February 2, 2009
Page 107

O-21k

Valley land use map). The draft EIR prepared by Jones and Stokes in 2008 received such strong public comments on its inadequacy that the document was rejected by the developer. Additionally, Jones & Stokes has an ongoing contract with MPWMD for more than \$2,000,000 for the MPWMD Water Supply Project, which presents further conflicts and obstacles to an unbiased analysis of the 2007 General Plan. The terms of the contracts with the County and with the MPWMD require Jones & Stokes to provide documentation of any potential conflict of interest. With both agencies, the conflict is apparent, but Jones & Stokes has failed to disclose its financial interests in the other projects. Jones and & Stokes' financial interests significantly impairs its ability to provide balanced, unbiased consulting services for the Draft EIR, and calls into public question the integrity of the CEQA documentation. 391

CONCLUSION

Thank you for the opportunity to comment. Based on these comments and those provided by other members of the public and by agencies, it is clear that the DEIR should be rewritten and recirculated in its entirety. The current draft is inadequate under CEQA. 392

Very truly yours,

Law Office of Michael W. Stamp

Molly Erickson (JW)
By: Molly Erickson

Attachment Exhibit A (7 pp.)



