

Final Environmental Impact Report
Solano County 2008 Draft General Plan



SCH # 2007122069

Volume III

Prepared by:
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August 1, 2008

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Solano County 2008 Draft General Plan



SCH # 2007122069

Volume III

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1 INTRODUCTION

1.1 OVERVIEW AND PURPOSE OF THIS DOCUMENT

This volume of the final environmental impact report (FEIR) for the Solano County 2008 Draft General Plan includes comment letters that were received by Solano County after the end of the 45-day public review period on the draft environmental impact report (DEIR) for the 2008 Draft General Plan, which lasted from April 18, 2008 to June 2, 2008. Consistent with the County's obligations under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), volumes I and II of the FEIR were prepared to respond to agency and public comments received on the DEIR during the statutorily prescribed public review period. (Pub. Resources Code, § 21091, subd. (d)(2)(A).) Volumes I and II also contain comment letters (and responses thereto) that were received after the expiration of the public comment period (e.g., comment letters 56 through 58), but close enough to the end of the comment period to be included in the FEIR. In such a case, the County exercised its discretion to treat the comments as "timely," but in doing so, the County was not obligated to treat all late comments as such. Indeed, the County is under no obligation to respond to any comments on the DEIR received after the end of the public comment period. (Pub. Resources Code, § 21091, subd. (d)(2)(A); State CEQA Guidelines (Cal. Code Regs., Tit. 14), § 15088, subd. (a).) Rather, the CEQA statute and the State CEQA Guidelines provide only that a lead agency "may" respond to comments that are received after the close of the public review period. (Ibid.)

The County has received nine late comment letters on the DEIR. Although the County is not required to respond to late comment letters (Pub. Resources Code, § 21091, subd. (d)(2)(A); State CEQA Guidelines, § 15088, subd. (a)), this section provides responses to the additional late comment letters as a courtesy and in recognition of the importance of the 2008 Draft General Plan to Solano County and its residents. The inclusion of late comment letters and responses to those comments in the FEIR for the 2008 Draft General Plan should not be construed as establishing a precedent with respect to late comments received on EIRs for other projects within the county. The County remains mindful that it is under no duty to respond to late comment letters under CEQA, and it may choose not to respond to late letters in the future. (Pub. Resources Code, § 21091, subd. (d)(2)(A); State CEQA Guidelines, § 15088, subd. (a).)

This volume is comprised of two sections. Section 1 responds to comment letters received after the close of the public comment period on the DEIR, but prior to the release of volumes I and II of the FEIR. The responses to the comments in section 1 provide a similar level of detail and analysis as the responses to comments received during the public review period (i.e., the responses included in FEIR Vol. II). The comment letters included in section 1 are as follows:

- ▶ Late comment letter No. 60: Shute, Mihaly & Weinberger, dated July 17, 2008
- ▶ Late comment letter No. 61: Bill Mayben, dated July 18, 2008
- ▶ Late comment letter No. 62: June Guidotti, dated July 20, 2008

Section 2 responds to comments received shortly before the close of the public hearing on the 2008 Draft General Plan and FEIR (July 29, 2008). Due to time constraints, less detail is provided in the responses to the comment letters included in section 2 than is provided in the responses included in FEIR volume II, or section 1 of this volume. Nevertheless, the County and its consultants have made a good faith attempt to respond to all of the late comments received prior to the close of the public hearing on the 2008 Draft General Plan and FEIR. The comment letters included in section 2 are as follows:

- ▶ Late comment letter No. 63: Sacramento Municipal Utility District, dated July 25, 2008

- ▶ Late comment letter No. 64: Solano Community College, dated July 28, 2008
- ▶ Late comment letter No. 65: Vallejo Heights Neighborhood Association, dated July 28, 2008
- ▶ Late comment letter No. 66: Critical Mass Agriculture, dated July 29, 2008
- ▶ Late comment letter No. 67: Sierra Club, dated July 29, 2008
- ▶ Late comment letter No. 68: June Guidotti, dated July 29, 2008

1.2 ORGANIZATION AND FORMAT OF VOLUME 3 OF THE FEIR

Volume 3 of the FEIR is organized as follows:

- ▶ **Chapter 1, “Introduction,”** describes the purpose and content of Volume 3 of the FEIR.
- ▶ **Chapter 2, “Comments and Individual Responses - Section 1,”** contains a list of all agencies and persons who submitted comments on the DEIR after the close of the public comment period on the DEIR, but prior to the release of volumes I and II of the FEIR, copies of the comment letters submitted, cross references to relevant master responses, and individual responses to the comments that are not addressed in master responses.
- ▶ **Chapter 3, “Comments and Individual Responses - Section 2,”** contains a list of all agencies and persons who submitted comments on the DEIR shortly before the close of the public hearing on the 2008 Draft General Plan and FEIR (July 29, 2008), copies of the comment letters submitted, and general responses to the comments.
- ▶ **Chapter 4, “Corrections and Revisions to the DEIR,”** presents corrections and other revisions to the DEIR and FEIR text based on issues raised by comments, clarifications, or corrections. Changes in the text are signified by strikeouts where text is removed and by underlined text where text is added.

As mentioned previously, this document, Volume I and II of the FEIR and the DEIR together comprise the FEIR.

2 COMMENTS AND RESPONSES – SECTION 1

This chapter contains the comment letters regarding the DEIR, which were received after the close of the public comment period on the DEIR, but prior to the release of volumes I and II of the FEIR. The chapter contains individual responses to those comments not addressed in Chapter 2, “Master Responses” of Volume I of the FEIR. Comment letters and responses to comments are arranged in the order they were received:

Each letter and each comment within a letter have been given an identification number. Responses are numbered so that they correspond to the appropriate comment. Where appropriate, responses are cross-referenced between letters or with a master response. Attachments referenced by commenters within their letters are a part of the County’s administrative record and are available for public review during regular business hours at the Solano County Department of Resource Management, 675 Texas Street, Suite 5500, Fairfield, California 94533.

Table 2-1 provides a list of the agencies and persons who submitted comments after the close of the public comment period on the DEIR, but prior to the release of volumes I and II of the FEIR.

Comment Letter No.	Commenter	Agency	Date
60	Matthew D. Zinn	Shute, Mihaly & Weinberger LLP	July 17, 2008
61	Bill Mayben	NA	July 18, 2008
62	June Guidotti	NA	July 21, 2008

LETTER 60

MATTHEW D. ZINN

Shute, Mihaly & Weinberger LLP

July 17, 2008

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July 17, 2008

Solano County Department of Resource Management—Planning Services
Attn: Jim Louie
675 Texas St., Ste. 5500
Fairfield, CA 94533

Re: Comments on Draft Environmental Impact Report for the Solano
County General Plan Update

Dear Mr. Louie:

On June 2, 2008, this firm submitted comments on the Draft Environmental Impact Report (“DEIR”) prepared by the County for the Solano County General Plan Update (“GPU”). The comments were submitted on behalf of the Solano County Orderly Growth Committee, Greenbelt Alliance, the Green Valley Landowners’ Association, and the Solano Group of the Redwood Chapter of the Sierra Club. This letter provides supplemental comments on the DEIR on behalf of our clients.

60-1

As described below and in our previous comments, the DEIR is insufficient in many important respects. The pervasive flaws in the document demand that the DEIR be substantially modified and recirculated for review and comment by the public and public agencies.

60-2

I. SPECIFIC IMPACT COMMENTS

A. Transportation and Circulation

We have retained the transportation consulting firm of MRO Engineers, Inc. to review the transportation and circulation analysis in the DEIR. The results of their review, in a report prepared by Neal Liddicoat, P.E., is attached hereto as Exhibit 1, and we incorporate it by reference here.

60-3

1. The DEIR's Traffic Analysis Uses an Inappropriate Baseline.

The DEIR's baseline for establishing transportation impacts—and particularly the document's assumptions regarding the County's future roadway system—is vague and confusing. Because the traffic analysis seeks to predict future traffic patterns, it must include data accurately reflecting the future roadway system. It is thus essential that the analysis assume only those roadway improvements that are reasonably likely to be in place by the target date of the projection. Here, the DEIR does not clearly identify the 2030 roadway network. It implies that several highway projects were assumed to be in place in 2030—suggesting that the projects are *needed* by jurisdictions, *see* DEIR at 4.4-15, but provides no evidentiary support that such projects are likely to be implemented. If the analysis assumes the existence of improvements that are unlikely to be implemented, then it will find traffic conditions to be better than they actually will be.

60-4

Other agencies have grappled with this issue and, in an attempt to accurately evaluate traffic impacts, have included only those transportation improvements that have a high likelihood of being implemented. For example, the EIR prepared for the Marin County Countywide General Plan (“CWP”) explains its approach as follows:

Many of these [transportation] improvements would enable the roadway system to accommodate the increased traffic demand generated by Draft 2005 CWP Update development without causing unacceptable traffic congestion. However, only transportation improvements with a high likelihood of funding, and consequently a high likelihood for full implementation by 2025, were included in the traffic model in order to provide a more conservative evaluation of future traffic impacts. For each improvement, Exhibit 4.2-15 indicates whether the improvement was included in the traffic model and an explanation of why specific improvements were not included in the traffic model.

See Marin County, *CWP Draft EIR*, Transportation Chapter, attached hereto as Exhibit 2.

To understand exactly how Solano County's roadways and freeways would operate upon implementation of the General Plan, the DEIR must clearly document and justify the planning assumptions. Only those transportation improvement projects that are programmed and that have a high likelihood of funding, and consequently a high likelihood for full implementation by 2030, should be included in the transportation model to provide a realistic evaluation of future traffic impacts. The DEIR's does not indicate whether or not it has taken this approach.

60-5

2. The DEIR's Thresholds of Significance Result in a Substantial Underestimation of the GPU's Traffic Impacts.

As the MRO Engineers report explains, the DEIR relies on an inappropriate threshold of significance for determining the significance of the GPU's traffic impacts. Because the threshold of significance requires a decline in the level of service ("LOS") rating for GPU-generated traffic on a roadway segment to be considered significant, it understates the significance of additional traffic where roadways already operate at unacceptable LOS under existing conditions. For example, given the LOS criteria defined in the DEIR, a four-lane freeway segment found to be operating near the top end of the unacceptable LOS D range (i.e., with a daily traffic volume of slightly more than 52,000 vehicles per day ("VPD")) would need to have a GPU-related increase in daily traffic of up to 15,200 VPD (or almost 30 percent) before that segment would fall to LOS E (with a daily volume in excess of 67,200 VPD) and thus be defined as having a significant impact. Further, the GPU's generation of additional traffic on a roadway segment already operating at LOS F could never be significant, no matter how large the increase.

60-6

According to the roadway segment LOS results presented in DEIR Table 4.4-1, 25 of the study roadway segments (16 percent of the total study segments) avoid requiring mitigation through this significant flaw in the analysis. Conceivably, therefore, the total number of roadway segments with significant impacts under the Preferred Plan could increase from 44 to at least 69 with the use of a meaningful threshold of significance. With regard to the Maximum Development scenario, a similar number of such cases occurs, so that the number of significantly-impacted segments could increase from 46 to at least 71.

60-7

In summary, the DEIR's thresholds of significance should be modified to include a criterion providing a more meaningful measure of the GPU's exacerbation of unacceptable conditions. Inclusion of such a standard would undoubtedly result in additional significant impacts among the locations that operate at unacceptable levels of service under existing conditions.

60-8

3. The DEIR Underestimates Traffic Impacts by Failing to Analyze Impacts During Peak Periods and by Ignoring Traffic Impacts on Intersections.

The DEIR understates the GPU's traffic impacts because it uses an inappropriate methodology to evaluate traffic conditions. Specifically, the DEIR's LOS analysis was conducted only for average daily traffic ("ADT"), rather than peak hour or peak period traffic. LOS is typically measured during the weekday a.m. or p.m. peak period or peak hour—the heaviest travel time of any given day. This is the most accurate measure of traffic conditions because congestion generally occurs during morning and

60-9

evening commute periods, not during the middle of the day. Averaging traffic volumes over an entire day tends to smooth out very high peak volumes. This would then give the impression that the roadway suffered no traffic problems, when in fact there was significant congestion and vehicular delay during commute times. The DEIR's approach of calculating LOS based on ADT understates the true effects of development under the GPU. CEQA requires that the analysis of periodic impacts, like traffic or noise, account for the peak periods of impact, rather than submerging them in an average. *See Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm'rs*, 91 Cal. App. 4th 1344, 1355 (2001) (requiring analysis of single-event noise levels).

60-9
Cont'd.

The flaws in the traffic analysis methodology extend beyond its failure to evaluate peak hour traffic congestion. The DEIR's LOS analysis was conducted for roadway segments rather than intersections. While it is helpful to understand how roadway segments operate, the critical measure of a roadway's capacity is the capacity of its intersections, which are the choke points in a roadway network. While a roadway segment may operate at LOS D, intersections along that same roadway may operate at LOS E or F. Operational analyses typically focus on intersections rather than road segments since the capacity of the intersections is usually more critical than the capacity of the roadway. We are perplexed as to why the County did not analyze intersections in the GPU DEIR inasmuch as the County routinely appears to require such analyses in its environmental documents. *See, e.g., Solano County, Rockville Trails Estates Residential Subdivision EIR*, excerpts attached hereto as Exhibit 3. Moreover, cities and counties routinely conduct intersection LOS analyses in general plan EIRs. *See, e.g., Exhibit 2 (Marin CWP Transportation chapter)*.

60-10

"An EIR must identify and evaluate all significant environmental effects of a project." *Citizens to Preserve the Ojai*, 176 Cal. App. 3d at 428. The DEIR, by failing to consider intersection impacts, has failed to live up to this charge. Had the DEIR analyzed peak period intersection LOS, the GPU's traffic impacts would certainly be more severe than the DEIR discloses.

4. The DEIR Fails to Disclose the Severity and Extent of the GPU's Traffic Impacts.

The EIR fails to adequately analyze the severity and extent of traffic impacts because it looks only at 2030 and does not contain any interim analysis of traffic impacts. This critical oversight is especially egregious since several land use projects are in the pipeline and traffic from these projects would start to affect roadways within the next few years. Yet, based on this traffic analysis, the public and decision makers are left in the dark as to exactly how the Solano County roadway system will operate in 2015 or 2025. Given the very long planning horizon and the substantial risk that forecasts over a 20 year period will prove to be inaccurate, the revised DEIR must evaluate traffic using

60-11

the future baseline (2030) as well as at least one, but ideally two, interim baselines (e.g., 2015 and 2025).

60-11
Cont'd.

Most important, the DEIR fails to identify the trigger for the implementation of traffic mitigation measures so that road improvements do not lag behind project development. Nor does the document indicate how the County would monitor traffic conditions. How specifically will the County stay ahead of needed traffic improvements? Will developers fund improvements and then be reimbursed by future development? Does the County have a traffic impact fee? If so, how would it be implemented? These critical questions must be answered in the DEIR. Impacts from the GPU could be more severe than the DEIR discloses if transportation improvements do not keep pace with land use development.

60-12

5. The DEIR Fails to Include Feasible Mitigation Measures for the GPU's Significant Transportation Impacts.

The DEIR concludes that no mitigation measures, other than roadway projects and proposed GPU policies, are available to reduce the transportation impacts that would result from implementation of the General Plan. DEIR at 4.4-42. The DEIR's approach to mitigation fails in four substantive ways: (a) the document provides no evidence that the roadway projects would ever be implemented; (b) the GPU policies, as currently written, would not effectively reduce project impacts; (c) the DEIR does not identify mitigation for each significantly affected road segment; and (d) other feasible mitigation exists that would further reduce project impacts.

60-13

a. The DEIR Provides No Evidence that the Roadway Projects Apparently Needed to Reduce Impacts Would Be Implemented.

The DEIR determines that the GPU would result in significant traffic impacts. DEIR at 4.4-32 through 4.4-41. CEQA, therefore, requires the identification of mitigation measures to avoid or minimize those impacts. *See* CEQA Guidelines § 15126.4(a). Although these roadway projects might reduce the severity of the GPU's traffic impacts if implemented, the DEIR provides no evidence that these projects would be built within the GPU planning period. Indeed, the DEIR's description of these roadway projects is vague and otherwise unenforceable as shown by the following statements:

60-14

- "Some projects have been identified in other studies and would mitigate the congestion if funding is available," DEIR at 4.4-41; and
- "Furthermore, many of the proposed roadway projects listed above are under the jurisdiction of Caltrans and others are sponsored by local cities

and funded substantially with project development fees in those cities, so the County cannot guarantee their implementation, nor can funding for those projects be guaranteed.” *Id.* at 4.4-42.

As these statements demonstrate, the DEIR fails to support a conclusion that the roadway improvements in fact would be implemented.

In addition, the DEIR never correlates individual mitigation roadway improvements with the individual impacted roadways. For example, the DEIR identifies the widening of Lake Herman Road as a mitigation measure (at 4.4-41), but the document never explains which impact this mitigation measure is intended to address. Which of the affected roadway segments identified in Table 4.4-10 would be mitigated by widening Lake Herman Road and what specifically would be the LOS of these roadway segments once Lake Herman Road is widened? (The lack of correlation between the proposed mitigation and the specific impact is discussed further below.)

b. The General Plan Policies Would Not Effectively Reduce Project Impacts.

The DEIR relies on certain General Plan policies to reduce impacts, but concludes that these policies could not, in fact, reduce these impacts to a less than significant level. DEIR at 4.4-42. These policies fail to reduce traffic impacts because, among other reasons, they are vague and otherwise unenforceable. CEQA requires that “mitigation measures proposed in an EIR must be “fully enforceable” through permit conditions, agreements, or other legally binding instruments.” Pub. Res. Code § 21081.6(b); CEQA Guidelines § 15126.4(a)(3). Uncertain, vague, and speculative mitigation measures have been held to be inadequate because they lack a commitment to enforcement. *See, e.g., Anderson First Coalition v. City of Anderson*, 130 Cal. App. 4th 1173, 1188-89 (2005) (holding traffic mitigation fee measure inadequate under CEQA due to vagueness in program for implementing required improvements). The policies intended to mitigate the GPU’s traffic impacts do not meet these standards.

For example, the measures call for the County to facilitate shorter travel distances and modes of travel other than the automobile (TC-P-3), evaluate the effects of new development on transportation systems (TC-P-4), and attribute to new development the costs of roadway improvements (TC-P-5). DEIR at 4.4-41. The latter two of these policies are vague and do nothing to actually reduce the traffic congestion caused by implementation of the GPU. The purpose of mitigation is to reduce the severity of an environmental impact, but the cited GPU policies do little more than state the County’s interest in reducing traffic impacts. Setting goals is important, but it is no substitute for actually imposing effective mitigation measures. While the first policy might reduce trip generation, the DEIR ignores the fact that it is the GPU’s sprawling land development pattern that is the root cause of the GPU’s traffic impacts.

60-14
Cont'd.

60-15

The DEIR's failure to incorporate adequate, enforceable, feasible mitigation measures into GPU policies does not by itself make the Project's impacts unavoidable. To the contrary, if the DEIR had proposed and analyzed adequate mitigation measures—as required under CEQA—some of those impacts might have been avoided. In order to do this job, the GPU policies must be revised to make them mandatory and legally binding.

60-15
Cont'd.

c. The EIR Is Remiss in Not Proposing Mitigation For *Each* of the GPU's Impacts.

DEIR Table 4.4-10 demonstrates the profound impact that implementation of the GPU would have on County roadways. As the table shows, about 44 roadway segments within the County would operate at unacceptable levels of service (i.e., below LOS C) upon implementation of the GPU.¹ Rather than identify each of the roadway segments listed in Table 4.4-10 as a distinct impact under CEQA, the EIR inappropriately lumps them together as one significant impact. The implication of this consolidation is quite important. Whereas the EIR should have identified a minimum of 44 specific measures to eliminate or minimize *each* impacted roadway segment, the EIR generically looks to GPU policies and several roadway projects which are intended to serve as "mitigation" for this *one* impact. Yet, because the EIR never identifies the nexus between each impacted roadway segment and the specific GPU policy or roadway project mitigation, it is not possible to determine which, if any, impacts would be moderated or avoided by the DEIR's mitigation measures.

60-16

It is not sufficient for the County to merely throw up its hands in defeat and identify the GPU traffic impact as significant and unavoidable. For each significantly impacted roadway segment (or more appropriately, each significantly impacted intersection), the revised DEIR must identify a corresponding mitigation measure. In the absence of such an attempt, the public and decision makers are left in the dark as to the severity and extent of the GPU's impact on the County's roadway system.

The DEIR also concludes the GPU would make a cumulatively considerable contribution to the degradation of roadway levels of service. As such, it must identify feasible mitigation for this significant cumulative impact. *See* CEQA Guidelines § 15126.4(a).

¹ Further, as discussed above, had the DEIR utilized an appropriate threshold of significance, analyzed intersections and peak hour volumes, rather than daily traffic, the GPU's traffic impacts would be considerably more severe than this table discloses.

d. Feasible Mitigation Exists to Reduce the GPU's Significant Project and Cumulative Traffic Impacts.

CEQA requires that an EIR identify, and the decision maker adopt, all feasible mitigation measures that would reduce or avoid a project's significant impacts. Pub. Res. Code § 21002; CEQA Guidelines § 15091(a)(3). The agency must comply with this requirement even if the mitigation would not reduce the impact to a less than significant level, as long as the measure would have some mitigating effect. The best way to mitigate the GPU's traffic impacts—as well as the GPU's cumulative traffic impacts—would be to reduce both the total number of vehicle trips and the average trip length. Such mitigation would simultaneously reduce the GPU's traffic impacts, its degradation of air quality, and its contribution to climate change.

In addition to revisions to the GPU's policies and implementation measures, the County should evaluate measures to ensure that it is taking all available means to ensure the success of alternative modes of transportation. To this end, the County should develop a list of alternative transportation strategies. These strategies should include project and community design standards and techniques that have been demonstrated to be effective in achieving any of the following objectives:

- Reducing commute distances and commute times;
- Reducing automobile use, especially single-occupant vehicle automobile trips;
- Encouraging and supporting the use of transit; and
- Encouraging the use of bicycles and walking as an alternative mode of transportation.

60-17

To this end, we request that the County consider measures similar to those identified in the document, "Traffic Impacts and Mitigation Strategies." This document, prepared by Nelson/Nygaard Consulting Associates for the City of San Carlos and attached hereto as Exhibit 4, relies on extensive research and numerous case studies to compile a comprehensive list of measures to reduce vehicular trips. The measures include a variety of trip reduction strategies including land use, transportation demand management, transportation impact fees, parking management, bicycle network, school transportation programs, peak hour vehicle trip reduction, shuttle programs, and city-based trip reduction measures for city employees and residents. These measures have been determined to be feasible as evidenced by their adoption by numerous jurisdictions throughout California. The Solano GPU EIR should study how such measures could be adapted to Solano County since they would reduce not only the GPU's transportation impacts but also impacts relating to the GPU's transportation-related increase in criteria air pollutants and greenhouse gas emissions.

B. Air Quality

1. The DEIR Fails to Adequately Identify All Feasible Mitigation for the Project's Construction-Related Air Quality Impacts.

Construction-related reactive organic gases (“ROG”), oxides of nitrogen (“NOx”), and particulate matter (“PM10”) emissions could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations. DEIR at 4.2-22. The DEIR correctly concludes that this impact would be significant. *Id.* at 4.2-21. However, as discussed in our June 2, 2008 letter, the DEIR neglects to identify or analyze effective mitigation measures. The flaws in the DEIR’s approach to mitigation extend far beyond its failure to consider the land use mitigation measures identified in our June 2, 2008 letter.

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For example, the DEIR explains that the control measures recommended by the Bay Area Air Quality Management District (“BAAQMD”) and the Yolo Solano Air Quality Management District (“YSAQMD”) are incorporated into the 2008 Draft General Plan under Program HS.I-60. DEIR at 4.2-23. But rather than specifically identify these control measures—and commit to adopting them—the DEIR instead asserts that these measures are not a requirement of approval. *Id.* Unfortunately, neither the DEIR nor the proposed GPU ever identifies the specific control measures so neither the public nor decision makers have any sense as to what measures could have potentially been adopted.² Nor does the DEIR explain why the measures are not a requirement of approval. Inasmuch as these control measures are recommended by the BAAQMD and the YSAQMD, they likely constitute feasible mitigation and should be adopted.

60-19

The DEIR does identify two mitigation measures to reduce construction-related exhaust emissions and fugitive PM10 dust emissions. But compared to what other agencies are doing to protect air quality from construction-related emissions, Solano County’s attempt at mitigation appears half-hearted, at best. Specifically, largely as a result of the California Legislature’s passage of Senate Bill 656, California air districts have developed a comprehensive list of measures designed to reduce particulate matter emissions from construction operations. The San Joaquin Valley Air Pollution District, the Ventura County Air Pollution Control District, the San Luis Obispo Air Pollution Control District, and the Sacramento Metropolitan Air Quality Management District have found the following particulate matter measures to be reasonable and feasible:

60-20

²The proposed GPU does include a sentence discussing generic best management practices (at HS-71), but it is not possible to tell whether the measures discussed in this sentence are the same measures contemplated by the BAAQMD and the YSAQMD.

- For backfilling during earthmoving operations, water backfill material or apply dust palliative to maintain material moisture or to form crust when not actively handling; cover or enclose backfill material when not actively handling; mix backfill soil with water prior to moving; dedicate water truck or large hose to backfilling equipment and apply water as needed; water to form crust on soil immediately following backfilling; and empty loader bucket slowly; minimize drop height from loader bucket.
- During clearing and grubbing, pre-wet surface soils where equipment will be operated; for areas without continuing construction, maintain live perennial vegetation and desert pavement; stabilize surface soil with dust palliative unless immediate construction is to continue; and use water or dust palliative to form crust on soil immediately following clearing/grubbing.
- While clearing forms, use single stage pours where allowed; use water spray to clear forms; use sweeping and water spray to clear forms; use industrial shop vacuum to clear forms; and avoid use of high pressure air to blow soil and debris from the form.
- During cut and fill activities, pre-water with sprinklers or wobblers to allow time for penetration; pre-water with water trucks or water pulls to allow time for penetration; dig a test hole to depth of cut to determine if soils are moist at depth and continue to pre-water if not moist to depth of cut; use water truck/pull to water soils to depth of cut prior to subsequent cuts; and apply water or dust palliative to form crust on soil following fill and compaction.
- For large tracts of disturbed land, prevent access by fencing, ditches, vegetation, berms, or other barriers; install perimeter wind barriers 3 to 5 feet high with low porosity; plant perimeter vegetation early; and for long-term stabilization, stabilize disturbed soil with dust palliative or vegetation or pave or apply surface rock.
- In staging areas, limit size of area; apply water to surface soils where support equipment and vehicles are operated; limit vehicle speeds to 15 mph; and limit ingress and egress points. For stockpiles, maintain at optimum moisture content; remove material from downwind side; avoid steep sides or faces; and stabilize material following stockpile-related activity.
- To prevent trackout, pave construction roadways as early as possible; install gravel pads; install wheel shakers or wheel washers, and limit site access.
- Where feasible, use bedliners in bottom-dumping haul vehicles.

- Grade each phase separately, timed to coincide with construction phase or grade entire project, but apply chemical stabilizers or ground cover to graded areas where construction phase begins more than 60 days after grading phase ends.
- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
- During initial grading, earth moving, or site preparation, projects 5 acres or greater may be required to construct a paved (or dust palliative treated) apron, at least 100 ft in length, onto the project site from the adjacent site if applicable.
- Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 24 hrs.
- Prior to final occupancy, the applicant demonstrates that all ground surfaces are covered or treated sufficiently to minimize fugitive dust emissions.
- Gravel pads must be installed at all access points to prevent tracking of mud on to public roads.
- Prior to land use clearance, the applicant shall include, as a note on a separate informational sheet to be recorded with map, these dust control requirements. All requirements shall be shown on grading and building plans.
- All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- Barriers with 50 percent or less porosity located adjacent to roadways to reduce windblown material leaving a site.
- Prohibit all grading activities during periods of high wind (over 15 mph).
- Pave all roads on construction sites.
- Replant vegetation in disturbed areas as quickly as possible.

- Permanent dust control measures in an approved project revegetation and landscape plan should be implemented as soon as possible following completion of any soil disturbing activities.
- Exposed ground areas that are planned to be reworked at dates greater than 1 month after initial grading should be sown with a fast-germinating native grass seed and watered until vegetation is established.
- Require a dust control plan for earthmoving operations.

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Cont'd.

While the measures noted above are designed to control project-related entrainment or re-entrainment of fugitive dust, there are additional mitigation measures to control construction-related NOx emissions. For example, the California Air Resources Board (“CARB”) publishes verified diesel emission control strategies. These strategies, attached as Exhibit 5, clearly confirm the availability of technology for reducing particulate and NOx emissions. The DEIR should require the use of applicable control strategies for construction activities arising from implementation of the GPU.

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2. The EIR Fails to Adequately Analyze and Mitigate Impacts Relating to the Project’s Consistency with Air Quality Planning Efforts.

a. The EIR Underestimates Air Quality Impacts Because it Does Not Analyze Interim Forecast Years.

The DEIR underestimates the air quality impacts of the GPU because it only calculates emissions for 2030. DEIR at 4.2-26. Modeling emissions for 2030 does not accurately reflect emission levels from the GPU since fleet emissions from on- and off-road vehicles will be substantially lower in later years due to greatly improved emissions control technologies, increased use of alternative fuels, and more stringent tailpipe emission standards. These technologies, alternative fuels and emission standards will likely be in place by 2030. In the meantime, however, emissions from implementation of the GPU would be far greater than the emission estimates identified in Table 4.2-4 (Summary of Modeled Operational Emissions of Criteria Air Pollutants and Precursors) at 4.2-26. Accordingly, the GPU DEIR also should have provided emission estimates at an interim stage of development expected to occur during General Plan build-out (e.g., 2015).

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b. The DEIR Fails to Analyze the Severity and Extent of the GPU's Inconsistencies with the Applicable Air Quality Plans.

Implementation of the GPU would result in a massive increase in emissions in comparison to the BAAQMD and YSAQMD significance criteria. Specifically, the Project would exceed the BAAQMD significance criteria by about 3,000% (total unmitigated ROG emissions would be 2,412 pounds per day (lb/day) while the BAAQMD significance threshold is 80 lb/day). DEIR at 4.2-26. The DEIR correctly finds that this—and the increase in NOx and PM10 emissions—would conflict with BAAQMD and YSAQMD air quality planning efforts and would thus constitute a significant impact. *Id.* Yet, the DEIR fails entirely to provide a sense of the environmental consequences of these exceedances. It is not enough to simply state, as the DEIR does, that the Project would conflict with air quality attainment plans. At a minimum, the DEIR is obligated to provide a detailed investigation of the severity and extent of impacts to the air districts' ability to attain the air quality standards. The DEIR simply does not conduct this evaluation.

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As a case in point, both the YSAPCD and the BAAQMD have established intricate control strategies including transportation and land use programs designed to reduce vehicle miles traveled ("VMT") and transportation control measures designed to begin to bring the respective regions into compliance with air standards. *See e.g.*, DEIR at 4.2-12, 4.2-16. To that end, the BAAQMD looks closely at the rate of increase in VMT in comparison to the rate of population increase. *Id.* at 4.2-20. The BAAQMD is required to submit "rate-of-progress milestone evaluations" in accordance with the California Clean Air Act. *Id.* at 4.2-15. How do the emissions from the GPU compare to the population, VMT, and emission estimates and rate-of-progress milestones that the Air Districts project for Solano County? Without that information and analysis, it is not possible to determine whether the huge increase in emissions would completely sabotage the Districts' efforts to attain air quality standards.

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3. The DEIR Underestimates the Project's Increase in Emissions Because It Omits Emissions From Stationary Land Uses.

According to the DEIR, the GPU could accommodate stationary sources of pollutants such as diesel-engine or gas turbine generators for emergency power generation, or process equipment for light-industrial uses, but states "there is no available methodology to reliably estimate the emissions from these sources." DEIR at 4.2-29. Such dismissive treatment of these potentially significant sources of emissions is not adequate under CEQA. Rather, the County must "use its best effort to find out and disclose all that it reasonably can" regarding the air quality impacts from the proposed GPU. *Citizens to Preserve the Ojai v. Ventura*, 176 Cal. App. 3d 421, 431 (1986); *see also Laurel Heights Improvement Ass'n v. Regents of the Univ. of Cal.*, 47 Cal. 3d 376,

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399 (1988) (“*Laurel Heights I*”) (“We find no authority that exempts an agency from complying with the law, environmental or otherwise, merely because the agency’s task may be difficult.”).

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Moreover, the task here does not appear exceptionally difficult. The BAAQMD sets forth guidance for evaluating emissions from stationary (i.e., industrial) sources, even when the stationary sources are contemplated at an early planning stage such as a general plan. See BAAQMD, CEQA Guidelines at 47 and 48, attached hereto as Exhibit 6. While the BAAQMD Guidelines acknowledge that it may be difficult to use specific emission factors, it recommends making the best estimate of future uses. *Id.* In fact, the BAAQMD Guidelines provide generalized estimates of air contaminant emissions for various categories of industrial land uses. *Id.* tbl. 14 (“Generalized Emission Factors For Selected Industry Groups”). Given that the Solano GPU identifies acreage for industrial land uses, see DEIR at tbl. 3-2 (“Land Use Projections of the 2008 Draft General Plan”), and the BAAQMD Guidelines depict average emissions per facility in pounds per acre per day, the DEIR certainly could have estimated the increase in emissions from industrial and other stationary sources. Had the DEIR included emissions from stationary sources in its emissions calculations, the impacts of the GPU on the region’s air quality would be far more severe than disclosed in the DEIR

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4. The DEIR Fails to Analyze Impacts Resulting From the Project’s Increase in Carbon Monoxide Emissions.

Although the DEIR recognizes that the GPU has the potential to result in long-term operational, local mobile source emissions of carbon monoxide (“CO”), the document neither quantifies the increase in emissions nor performs a “hot spot” analysis. Instead, in violation of CEQA, the DEIR defers this necessary analysis until after project approval. DEIR at 4.2-32 (DEIR proposes the evaluation for violations of CO concentration thresholds as a mitigation measure).

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Air quality agencies have made it quite clear that studies of CO concentrations are of paramount importance. According to the BAAQMD, analysis of localized CO concentrations is important for two reasons:

First, State and federal laws require the region to attain and maintain ambient air quality standards. The region must ensure that increased motor vehicle use and congestion do not nullify the great strides that have been made with respect to ambient concentrations of CO. Secondly, the region must safeguard against localized high concentrations of CO that may be not be recorded at monitoring sites. Because elevated CO concentrations are generally fairly localized, heavy traffic volumes and congestion can lead to high levels of CO, or “hotspots,” while concentrations at the closest air quality monitoring station may be below State and national standards.

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See Exhibit 6 at 36-46 (BAAQMD CEQA Guidelines).

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Here, the DEIR provides no justification for deferring the analysis of CO hotspots given that the DEIR discloses that implementation of the GPU would cause 44 roadway segments to be significantly impacted. DEIR at tbl. 4.4-10. Moreover, as the MRO Engineers' report makes clear, had the DEIR's traffic analysis relied on accurate methodology, at least 69 roadway segments would actually be significantly impacted. See Exhibit 1 at 2 (MRO Engineers Report). It is this precise scenario—heavy traffic volumes leading to excessive traffic congestion—that cause CO hotspots.

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To correct the DEIR's serious deficiency regarding the potential for CO threshold exceedances at affected locations within the planning area, CO hot spots must be modeled. Use of an appropriate model, such as the Caline line source dispersion model, should be used with applicable inputs (e.g., lane geometry, traffic volumes, emission factors and meteorology). Absent modeling, it is not possible to determine whether one-hour and eight-hour CO estimates for major roadway segments and intersections in the GPU planning area will exceed air quality standards. Moreover, elevated CO concentrations could expose nearby sensitive receptors to substantial pollutant concentrations. The DEIR's failure to provide any analysis of impacts relating to localized CO concentrations constitutes a fatal flaw.

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5. The DEIR Fails to Adequately Analyze or Mitigate Impacts Relating to Exposure to Toxic Air Contaminants.

The DEIR's pattern of unlawfully deferring and delegating analysis and mitigation is repeated again in the document's treatment of impacts relating to toxic air contaminants ("TACs"). The potential for the GPU to expose sensitive receptors to TACs is consistently acknowledged, but the DEIR provides no basis for its conclusions. The document never, for example, attempts to quantify the increase in TACs. Nor does it disclose the type of TACs—other than diesel particulate emissions—that could be generated by stationary sources.³ Finally, although the DEIR mentions the CARB Air Quality and Land Use Handbook, the DEIR makes no attempt to utilize the land use planning guidelines identified in the Handbook to minimize exposure to TACs. Set forth below are examples of the specific deficiencies in the DEIR's analysis:

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³ Other TACs for which data are available in California and which pose health risks include benzene, 1,3-butadiene, acetaldehyde, carbon tetrachloride, hexavalent, chromium, para-dichlorobenzene, formaldehyde, methylene chloride, and perchloroethylene. DEIR at 4.2-9

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First, although the DEIR acknowledges that implementation of the GPU could result in land uses that would be stationary sources of TACs, the DEIR fails to analyze whether implementation of the GPU would expose sensitive receptors to these pollutants. Instead, it looks to the BAAQMD and the YSAQMD to protect the County's sensitive land uses, claiming that these agencies would deny the required permits if the sources could not sufficiently mitigate the impact. DEIR at 4.2-34. The DEIR never acknowledges, however, that the types of sources that result in such exposures (e.g., dry cleaners, gas stations, or distribution centers) may not be required to acquire air quality permits. It is for this reason that CARB's Air Quality and Land Use Handbook looks to *local governments* to adopt buffers or setbacks sufficient to protect sensitive land uses from freeways, truck distribution centers, dry cleaners, gasoline dispensing stations, and other air pollution sources. CARB, *Air Quality and Land Use Handbook* at ES-1 (emphasis added), excerpts attached hereto as Exhibit 7. The Handbook states, "[b]ecause living or going to school too close to such air pollution sources may increase both cancer and non-cancer health risks, we are recommending that proximity be considered in the siting of new sensitive land uses." The document goes on to state, "[w]hat we know today indicates that keeping new homes and other sensitive land uses from siting too close to such facilities would provide additional health protection." *Id.* Clearly, the County's GPU provides the appropriate forum for protecting sensitive land uses from exposure to TAC sources. Yet we can find no evidence that the County has taken health risk into account in its land use planning process. Nor does the GPU DEIR analyze impacts relating to potential TAC exposure or take more than a perfunctory approach to land use based mitigation. The DEIR should explore, as mitigation, removing sensitive land uses from high-risk locations and/or establishing appropriate buffer zone requirements.

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Second, the DEIR states that because the County only has two major stationary sources of TACs, and because these sources are regulated, there would be no new land use compatibility conflicts. *Id.* at 4.2-35. Once again, this impact analysis never identifies these two major stationary sources nor does the document bother to analyze the proximity of proposed sensitive land uses to these sources. Indeed, it is in the discussion of existing air quality that we learn that these two sources of TACs are Travis Air Force Base and the Western Electric railyard. *Id.* at 4.2-9. Unfortunately, the DEIR never identifies the existing health risk from these sources nor does it disclose whether the GPU contemplates the development of sensitive land uses near these facilities. Finally, it must be emphasized that health risks could certainly arise from other stationary sources, even if they are not considered "major" sources. Dry cleaners and gas stations are prevalent in our society. The DEIR errs in its failure to consider land use based mitigation to protect sensitive receptors from *all* sources of TACs.

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6. The DEIR Fails to Identify Any Mitigation For the Project's Cumulative Air Quality Impacts.

Although implementation of the GPU would result in a significant increase in ROG, NO_x, PM₁₀ and the effect on the region's air quality is considered significant (DEIR at 6-6), the DEIR fails to identify any feasible mitigation for this significant impact. *See* CEQA Guidelines § 15126.4(a).

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C. Hydrology and Water Resources

1. The DEIR Fails to Adequately Analyze the Water Quality Impacts that Would Result From Implementation of the GPU.

Solano County's water resources are vitally important. Two of California's major rivers converge there to form one of the most important features of California's water system, the Sacramento-San Joaquin Delta ("Delta"). DEIR at 4.5-1. More than 23 million Californians and millions of acres of farmland rely on the Delta for all or part of their water supply, and countless species depend on it for their habitat. *Id.* At the same time, many of the County's water bodies, including the Delta, Suisun Bay, and San Pablo Bay are identified as "impaired" on the federal Clean Water Act's section 303(d) list. *See* DEIR at tbl. 4.5-6. The pollutants of concern include mercury, nickel, selenium, DDT, and PCBs. *Id.*

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Given the County's extraordinary water resources, combined with their critical value and declining water quality, one would expect the DEIR to have comprehensively analyzed how the change in land uses contemplated by the GPU would affect these resources. Unfortunately, the document provides no more than a cursory review, generally asserting that the GPU would impact water quality by increasing impervious surfaces, causing new urban industrial and commercial uses to be developed, and increasing the use of on-site wastewater treatment systems. *See* DEIR at 4.5-38 to 4.5-53. This perfunctory discussion cannot substitute for meaningful analysis. *City of Antioch v. City Council*, 187 Cal. App. 3d 1325 (1986). Under CEQA, an EIR must give decision makers and the public "detailed information" about project impacts and mitigation to reach their own judgments and decisions. *See* Pub. Res. Code § 21061. Indeed, the DEIR's cursory analysis of water quality impacts falls short of the good faith effort at disclosure that CEQA requires.

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The DEIR never analyzes the actual and specific consequences to water quality resulting from the particular changes in land uses contemplated by the GPU, but rather describes in generic terms the kinds of impacts that typically accompany land development. The document provides no insight, for example, as to the amount of increase in impervious surfaces or the severity or extent of how proposed development, including the use of site-specific sewer systems, would actually impact water quality. As

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we stated in our previous submission, "the description of impacts could apply as readily to a two-unit subdivision as to a general plan that provides for thousands of dwelling units, acres of commercial and industrial development, and infrastructure to support it." See June 2 SMW Letter at 24.

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Further, the DEIR fails to apply its own thresholds of significance to determine the significance of the GPU's impacts. Specifically, it does not reveal whether implementation of the GPU would violate water quality standards or waste discharge requirements, including NPDES waste discharge or stormwater runoff requirements, state or federal anti-degradation policies, enforceable water quality standards contained in the Central Valley RWQCB's basin plan or statewide water-quality control plans, or federal rule makings to establish water quality standards in California. DEIR at 4.5-37. The DEIR is silent on the specific effect that implementation of the GPU would have on applicable standards, requirements, policies, and plans.

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A proper analysis must include the following:

- Details about the proposed land use changes. As discussed in our June 2, 2008 letter, the DEIR should have identified and described proposed land uses including residential densities, and commercial and industrial intensities, as compared to existing conditions.
- Information on the proximity of proposed land uses vis-à-vis sensitive water bodies. Water quality impacts vary depending on a particular land use's proximity to drainageways and receiving waters. The DEIR preparers should have been able to overlay the County's proposed land use map (Exhibit 3-2) against the County's water bodies (Exhibit 4.5-2), and thus generally identify which proposed land uses have the potential to impact specific water bodies. For example, the DEIR should have evaluated whether residential uses are being planned for properties lacking public sewer systems and determined the soil type of these properties, their likelihood of successfully supporting on-site sewer treatment systems and the proximity of these properties to receiving waters. Failure to provide this information deprives the public and decision makers of the opportunity to decide whether particular land uses would be better suited in other locations.
- Identification of the amount of acreage attributed to proposed land uses with water quality impacts (e.g., an estimation of the amount of impervious surfaces and the amount of acreage devoted to residential or commercial landscaping that would result from the change in land uses and the amount and type of proposed industrial uses).
- Identification of the point and nonpoint sources of water pollution for each

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proposed land use. Water quality impacts vary widely depending on the type of land use and its potential to generate nonpoint source pollutants. For example, stormwater contamination originates primarily as nonpoint source runoff from impervious surfaces (e.g., sidewalks, driveways, streets, parking lots). Stormwater runoff of surfaces used by automobiles typically contains oil, grease, fuel, antifreeze, and byproducts of combustion (such as lead, cadmium, nickel, and other metals). Pesticides, herbicides, and fertilizer residues applied to maintain residential and commercial landscaping contaminate surface runoff and groundwater inflows.

- Description of how the increase in a particular pollutant would impact the specific water body. For example, the Delta (which is likely the ultimate receiving water body for discharges from many of the proposed land uses contemplated by the GPU) is already impaired for selenium, chlordane, DDT, Diazinon, Dieldrin, Dioxin Compounds, Furan Compounds, and PCBs (see Table 4.5-6). This means that the Delta already has more of these pollutant inputs than it can effectively assimilate and still support beneficial uses. Therefore, any increase in these pollutants will, by definition, result in an impact—and arguably a significant impact—to water quality. Certainly, the DEIR preparers could have estimated which land uses generate which pollutants and determined whether an increase in pollutants would impact water bodies.
- Identification of (pursuant to the DEIR’s own significance criteria) the applicable water quality standards or waste discharge requirements, including NPDES waste discharge or stormwater runoff requirements, state or federal anti-degradation policies, enforceable water quality standards contained in the Central Valley RWQCB’s basin plan or statewide water-quality control plans, or federal rule makings to establish water quality standards in California. Absent these standards, requirements, policies and plans, it is not possible to determine the extent of the GPU’s potential to degrade water quality.

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In conclusion, although a program level EIR may provide less detail about impacts than a project-level EIR, the DEIR here must offer *some* meaningful information about the consequences of this GPU. It cannot, as the DEIR does over and over again, merely acknowledge that the GPU may have consequences and then simply skip the critical task of analyzing the impact. Clearly, it is feasible to evaluate how implementation of the GPU would affect the County’s water resources. When faced with this same task, other agencies have made credible efforts to determine how land uses proposed in a general plan would affect water resources. Again, we point the County to the EIR prepared for the Marin Countywide General Plan update. See Marin County, *CWP Draft EIR*, Hydrology, Water Quality and Flood Hazards Chapter, attached hereto

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as Exhibit 8. We recommend that Solano County revise the DEIR's water quality impact analysis using, as its model, the approach taken in the Marin CWP EIR.

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2. The DEIR Fails to Adequately Analyze the Water Quality Impacts that Would Result From the Proposed Change in Policy Pertaining to On-site Wastewater Treatment Systems.

The proposed GPU intends to support increased urban development in unincorporated areas with individual septic systems and a small number of centralized treatment systems. DEIR at 4.9-44. To this end, the DEIR acknowledges that the potential exists for contamination of groundwater and surface water resources from these systems. DEIR at 4.5-39. Yet like the more general analysis of the GPU's effects on water resources discussed above, the DEIR's purported analysis of impacts from the use of these on-site sewer systems raises more questions than it answers as the following sentence makes clear:

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With development that would occur in conformance with the 2008 Draft General Plan, the potential exists for contamination of groundwater and surface water resources from several factors: over reliance on OWTS [on-site wastewater treatment systems] from increased density of OWTS, placement near domestic wells, improperly designed or constructed systems, seasonal or year-round high water tables, or placement in areas with insufficient soil depths or improper soil types.

DEIR at 4.5-39.

The DEIR does not come close to describing how these sewer systems would actually affect the physical environment. The document makes no attempt to identify those land uses that would likely rely on these sewer systems, identify the location of these uses and their proximity to receiving waters or describe how these systems could impact water resources. Indeed, rather than conduct a detailed investigation as to how these sewer systems could impact County water resources, the DEIR suggests that sewer systems should conform with groundwater and surface water regulations pursuant to AB 885. DEIR at 4.5-39. Merely promising to comply with agency regulations cannot substitute for a detailed analysis of impacts and does not conclusively demonstrate that a proposed project would not have a significant adverse impact. In *Kings County Farm Bureau v. City of Hanford*, 221 Cal. App. 3d 692, 716 (1990), for example, the court held that the fact that the EPA and the local air pollution control district had issued the necessary air emission permits for the construction of a coal fired cogeneration plant did not nullify the CEQA requirement that the lead agency analyze the significant air quality impacts of the entire project.

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In large part because the DEIR fails to study the implications for on-site sewer systems to degrade water quality, it fails to explore methods for preventing groundwater contamination. Marin County included policies that proposed changes to the land use plan with the goal of reducing land use development on sites near sensitive water resources or on properties lacking public sewer systems. Specifically, Marin sought to reallocate housing units from West Marin to a housing bank location in the City-Centered Corridor. The housing units removed from West Marin would be constructed in areas that have existing sewer service. As a result, the Marin CWP EIR concludes that additional water quality impacts to sensitive water resources in West Marin from potentially faulty septic systems would be avoided. *See Exhibit 8 at 4.5-26 to 4.5-27.* Solano County should seek to implement similar measures to protect its water resources.

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3. The DEIR Fails to Adequately Analyze the Project's Impacts Relating to Interference with Groundwater Recharge and Groundwater Supplies.

a. Analysis of the GPU's Interference with Groundwater Recharge Is Inadequate.

Despite the potentially alarming effects to existing land uses caused by interference with groundwater recharge (e.g., the DEIR notes that some cities are served exclusively by groundwater, most rural residential landowners rely on individual shallow groundwater wells that serve their domestic needs, and many growers rely on groundwater), the DEIR devotes a mere three sentences to this potential impact. DEIR at 4.5-10 and 4.5-53. Not surprisingly, this discussion is insufficient. While the following two perfunctory sentences exemplify the EIR's half-hearted approach to the task at hand, they are the *most* substantive of this impact discussion:

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As a result, levels of groundwater recharge in some Solano County groundwater basins would decline. Reductions in groundwater recharge in a given area could affect the yield of hydrologically connected wells and have adverse effects on sensitive plant communities.

DEIR at 4.5-53. As with other impact sections of the DEIR, the public has little more idea of the consequences of the GPU on groundwater resources than before the DEIR was written.

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One again, we refer Solano County to the analysis of groundwater recharge impacts in the EIR prepared for the Marin CWP. Unlike the Solano County GPU DEIR, the Marin CWP EIR identifies significant groundwater basins for the Marin County General Plan's planning areas. Moreover, while the Marin EIR acknowledges that the proposed housing locations contemplated by the Marin CWP are unknown, it nonetheless

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contains sufficient analysis to minimize potential impacts to groundwater resources as evidenced by the following statement:

[G]roundwater resources would be best protected if new housing units are located outside the groundwater basin boundaries. If development would occur in an area important to groundwater recharge, impervious surfaces should be located in a portion of the site that would not limit groundwater recharge. Only four planning areas—the Novato, Las Gallinas, Central San Rafael, and Lower Ross Valley—are all or partially located over a significant groundwater basin. Scenario 1 places the least number of housing units in these four planning areas and would therefore have the fewest adverse effects to groundwater resources.

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Exhibit 8 at 4.5-33. The Solano County GPU DEIR certainly could have explored land use options (e.g. changes to land use designations or densities and intensities) with the intent of minimizing the Project's impacts on the County's groundwater resources in a manner similar to that taken in Marin County.

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b. Analysis of Depletion of Groundwater Supplies Is Inadequate.

While the DEIR at least acknowledges the GPU's potential to interfere with groundwater recharge—albeit extraordinarily superficially—the document never bothers to determine whether the GPU would substantially deplete groundwater supplies. As the DEIR's threshold of significance make clear, the GPU would have a significant impact if the project would interfere substantially with groundwater recharge or "*substantially deplete groundwater supplies.*" DEIR at 4.5-37 (emphasis added). Here, the DEIR explains that the County's largest notable water aquifer—the Tehama Formation—has experienced a 30-foot drop in recent years, which suggests that overdraft conditions have occurred. DEIR at 4.9-6. At the same time, new residential development in the unincorporated County outside MSAs is likely to rely principally on groundwater. *Id.* at 4.9-35, 4.9-42. While the DEIR acknowledges that implementation of the GPU would result in insufficient water supplies, this conclusion does not substitute for an analysis of impacts to groundwater recharge.

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The DEIR defers the necessary analysis until after Project approval. Specifically, the document looks to the preparation of a "[c]ountywide groundwater balance budget and monitoring program" since "ongoing groundwater monitoring is critical for evaluating existing conditions and comparing groundwater extractions against projected sustainable yields on a countywide basis." *Id.* at 4.9-41 (mitigation measure 4.9-1a (2)). Thus, the potential for significant impacts on groundwater conditions from implementation of the GPU is simply not evaluated in the DEIR. The DEIR does not

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explain, however, why this analysis, aside from ongoing monitoring, could not be completed before approval of the GPU.

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c. The DEIR Cannot Rely on Vague General Plan Policies and Regulatory Compliance to Conclude that Impacts to Water Resources Would Be Less Than Significant.

Despite the failure of the DEIR to provide any facts or analysis, the document nonetheless boldly asserts that reliance on the GPU's goals, policies, and programs—and in certain instances compliance with regulations—would render impacts relating to water quality and groundwater resources less than significant. *See* Impact 4.5-1a (DEIR at 4.5-38); Impact 4.5-1b (DEIR at 4.5-45); Impact 4.5-2a (DEIR at 4.5-45); Impact 4.5-2b (DEIR at 4.5-51); Impact 4.5-3a (DEIR at 4.5-51); Impact 4.5-3b (DEIR at 4.5-53); Impact 4.5-4a (DEIR at 4.5-53); and Impact 4.5-4b (DEIR at 4.5-55). The DEIR provides insufficient basis for concluding that these policies, goals, programs, and regulations would effectively mitigate the GPU's significant impacts.

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As discussed above, a promise to comply with regulations cannot replace a detailed analysis of impacts and does not conclusively indicate that the GPU would not adversely impact water resources. Nor, as we explained in our previous submission, does the DEIR provide the evidentiary basis to support its assertion that the GPU policies would be sufficient to reduce impacts to water resources to a less-than-significant level. Indeed, the DEIR never even attempts to explain the nexus between the particular policy, goal or program and the specific impact that allegedly would be reduced. Moreover, also discussed in our prior letter, the policies are vague and undefined, intangible, directory, and unenforceable. Thus, while the DEIR includes a long list of policies, goals and programs, a careful review demonstrates that very few, if any, of these could be expected to protect the County's vitally important surface and groundwater resources.

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4. The DEIR Fails to Adequately Analyze or Mitigate the GPU's Cumulative Hydrological Impacts.

The DEIR concludes, absent evidence or analysis, that the GPU's cumulative hydrology and water quality impacts would be less than significant. DEIR at 6-8. For the reasons identified above, the GPU would likely significantly impact water resources. In addition, the DEIR neglects the cumulative water quality impacts resulting from development activity outside Solano County. Cumulative impacts occur when many sites within the same watershed each contribute some pollutants to runoff. When all the relatively small contributions are added up, a significant impact may occur. Cumulative water quality impacts are associated with almost all projects that propose uses of increased intensity relative to existing conditions. The most common cumulative water quality impact results from urbanization. As discussed above, most urbanization is associated with an increase in impervious surfaces and automobile use. The GPU EIR's

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cumulative impact analysis should have looked beyond the County and considered impacts from any sources that could potentially affect an entire water body (e.g, the Delta). If degraded runoff from the land uses in the County is added to degraded runoff from land uses outside the County, it is likely that substantial water quality degradation will occur. The DEIR does not adequately analyze this likely cumulative impact.

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In addition, although the DEIR concludes that cumulative development in the unincorporated area of the County plus the eight cities would increase demand on groundwater and surface water supplies and adversely affect supplies of groundwater and surface water (DEIR at 6-8), the DEIR fails to identify mitigation for this significant impact. The DEIR should be revised to include feasible mitigation measures for this impact. See CEQA Guidelines § 15126.4(a).

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D. Biological Resources

We have retained Diane Renshaw, Certified Senior Ecologist, to review the Biological Resources impact analysis in the DEIR. The results of her review are included in a report attached hereto as Exhibit 9 and are incorporated here by reference.

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Mr. Renshaw's report concludes that the DEIR's proposed mitigation measures for the loss of habitat due to GPU-planned development are largely illusory and ineffective. The DEIR relies repeatedly on mitigation plans and ostensibly offsetting preservation of habitat in other areas without providing any substantial evidence to support the DEIR's conclusion that those measures will be effective in reducing the otherwise significant losses of habitat—many thousands of acres—to a less than significant level. Because those measures are inadequate, as Ms. Renshaw's report demonstrates, those impacts remain significant.

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E. Aesthetics

1. The DEIR Does Not Evaluate Blight Impacts Potentially Caused By the GPU's Low Density Development Pattern.

As described in our previous comments, the GPU plans for very low density development in the unincorporated County. As described below, it is reasonably foreseeable that such development may be blighted due to future social and economic changes. That blight impact should be evaluated in the EIR.

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“Case law already has established that in appropriate circumstances CEQA requires urban decay or deterioration to be considered as an indirect environmental effect of a proposed project.” *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal. App. 4th 1184, 1205 (2004). “When there is evidence . . . that economic and social effects caused by a project . . . could result in a reasonably foreseeable indirect

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environmental impact, such as urban decay or deterioration, then the CEQA lead agency is obligated to assess this indirect environmental impact.” *Anderson First Coalition v. City of Anderson*, 130 Cal. App. 4th 1173, 1182 (2005).

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Cont'd.

Many suburban communities in California and beyond are experiencing a waive of blight caused in part by foreclosures due to mortgage defaults or other reasons for residents’ abandonment of their homes. See Christopher B. Leinberger, *The Next Slum?*, Atlantic Monthly (Mar. 2008), attached hereto as Exhibit 10.⁴ That suburban decay is not due entirely to the recent mortgage lending crisis, however, and researchers such as Professor Leinberger anticipate that the phenomenon will worsen in the coming years due to an oversupply of low density development in concert with a shift in demand to high-density housing in urban areas. *Id.* (noting a study projecting “a likely surplus of 22 million large-lot homes (houses built on a sixth of an acre or more) by 2025—that’s roughly 40 percent of the large-lot homes in existence today”).

60-61

For 60 years, Americans have pushed steadily into the suburbs, transforming the landscape and (until recently) leaving cities behind. But today the pendulum is swinging back toward urban living, and there are many reasons to believe this swing will continue. As it does, *many low-density suburbs and McMansion subdivisions, including some that are lovely and affluent today, may become what inner cities became in the 1960s and ‘70s—slums characterized by poverty, crime, and decay.*

Id. (emphasis added). Indeed, “[b]etween 2004 and 2007, the number of projects with apartments, condominiums and town houses for sale in the [Sacramento] region increased by 533%, while the number of subdivisions with homes on lots bigger than 5,500 square feet fell by 21%.” Ana Campoy, *With Gas Over \$4, Cities Explore Whether It’s Smart to Be Dense*, Wall St. J. (July 7, 2008), attached hereto as Exhibit 12.

Related to the changes in demand for housing described by Professor Leinberger is the effect of rising energy prices, particularly gasoline. As of June 30, 2008, the cost of gasoline in California averaged \$4.57 per gallon, see Energy Information Administration, U.S. Dep’t of Energy, *Weekly U.S. Retail Gasoline Prices, Regular Grade*, attached hereto as Exhibit 13, and has been projected to rise as high as \$7.00 per gallon by 2010, see Jeff Rubin, *Heading for the Exit Lane*, CIBC World Markets StragEcon (June 26, 2008), attached hereto as Exhibit 14. Such dramatically rising gas prices can significantly increase the cost of living in decentralized, high-VMT communities like those planned for in the GPU. As a result, housing in such

60-62

⁴ The author of the article, Professor Leinberger, is an urban planner, a professor in the Graduate Real Estate Program at the University of Michigan and currently a visiting fellow at the Brookings Institution. His resume is attached hereto as Exhibit 11.

communities becomes increasingly less desirable than alternative housing in compact urban communities, exacerbating the trend identified by Professor Leinberger.

60-62
Cont'd.

As we noted in our first letter, the GPU could produce demand for 13,236,561 gallons of gasoline per year under the Preferred Plan or 13,808,380 gallons per year under the Maximum Development Scenario. June 2 SMW Letter at 35. At \$4.57 per gallon, this amounts to an additional expenditure of \$60,491,084 per year under the Preferred Plan and \$63,104,297 under the Maximum Development Scenario. At \$7.00 per gallon, the Preferred Plan would require expenditures of \$92,655,927 per year for gas and the Maximum Development Scenario would add \$96,658,660. Assuming no price increase between 2010 and 2030—likely an unrealistically rosy assumption—gasoline expenditures would amount to \$2,348 per capita. Assuming an average of three persons per household, this would constitute over \$7,000 per year per household, or nearly \$600 per month.⁵

60-63

Moreover, this projection of the impact of gasoline prices over the planning period ignores the virtual certainty that coming climate change regulation will increase the price of gasoline and other forms of energy. CARB has recently announced that it is likely to implement a broad-based cap and trade program to reduce emissions of greenhouse gases under AB 32, the California Global Warming Solutions Act. See CARB, *Climate Change Draft Scoping Plan* at 15-20 (June 2008), excerpts attached hereto as Exhibit 15. That program is projected to include transportation fuels and other energy sources. *Id.* Such a program will inevitably increase the cost of gasoline and other carbon-intensive forms of energy subject to the cap, and indeed, such a price increase is one of the fundamental goals of a cap-and-trade program—to provide incentives for reduced consumption. See Congressional Budget Office, *Options for Offsetting the Economic Impact on Low and Moderate-Income Households of a Cap-and-Trade Program for Carbon Dioxide Emissions* (June 17, 2008), attached hereto as Exhibit 16.

60-64

Significantly increasing gasoline and other energy costs are reasonably likely to further depress demand for housing in decentralized communities like those planned for in the GPU. That additional downward pressure on demand will further exacerbate the potential declining value of homes in low density communities and increase the likelihood that Professor Leinberger's projections of blight in those communities will be realized.

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As the cases above indicate, this is an environmental impact that must be addressed in the DEIR. However, we wish to emphasize that this is most importantly a

60-66

⁵ To be sure, this increase would likely be offset *somewhat* by improvements in fuel economy over the planning period.

human impact that the County should carefully consider in deciding how to plan for development over the next 20 years. The County runs the risk of generating a development pattern that will very quickly become unaffordable and threatens to make parts of the County unlivable. This has obviously dire consequences for new development, but also threatens to seriously impact the property values and quality of life of existing residents. As drafted, the GPU sets the County in a direction of development that runs directly counter to the demographic and economic trends described above.

60-66
Cont'd.

2. The DEIR Fails to Provide Any Feasible Mitigation for the Impacts of GPU Development on Scenic Views

The DEIR notes that development under the GPU could obstruct scenic views, particularly of the Coast Range. It concludes, however, that “No feasible mitigation measures or policies are available that could *fully* preserve the existing visual qualities of Solano County while allowing development of urban land use under the Preferred Plan.” DEIR at 4.11-4 (emphasis added). As described in our previous letter, CEQA does not allow a lead agency to avoid specifying mitigation for an impact merely because that mitigation would not eliminate the impact. June 2 SMW Letter at 6. Rather, the County has an obligation to identify all feasible mitigation measures that would *reduce the severity* of the significant impact. Accordingly the DEIR should identify mitigation that would at least partially reduce the severity of scenic impacts from GPU-generated development.

60-67

3. The DEIR Does Not Analyze Impacts of the GPU on Hillsides and Ridgelines.

In analyzing the impact of the GPU on scenic views, the DEIR considers development that may obstruct scenic views of hills from lowland areas. However, the DEIR neglects to address whether the GPU would allow development on the hillsides and ridgelines that comprise those scenic views. Similarly, the statement of the regulatory baseline does not identify whether the County implements a ridgeline and hillside development ordinance to protect views. Because of the DEIR’s failure to show where new development is likely to occur in the County relative to existing development, the public and decision makers cannot determine whether the GPU would authorize significant hillside and ridgeline development that may have a significant impact on scenic views.

60-68

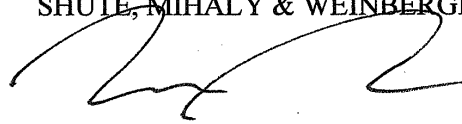
Mr. Jim Louie, Solano County Department of Resource Management
July 17, 2008
Page 28

* * *

Thank you for your consideration of these and our previous comments. We are available to answer any questions you may have.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in black ink, appearing to read "L. Impett", is written over the firm name.

LAUREL I. IMPETT
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July 15, 2008

Matthew Zinn
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94012

Re: Draft Environmental Impact Report (DEIR), Solano County 2008 Draft General Plan

Dear Mr. Zinn:

I have reviewed the Biological Resources section of the Draft Environmental Impact Report (DEIR) for the Solano County 2008 Draft General Plan, and find that there are inadequacies with a number of the mitigation measures proposed in that DEIR.

Many of the mitigation measures proposed in the Draft EIR to offset significant impacts to biological resources rely heavily on the preparation and implementation of mitigation and management plans. Without some sort of oversight or enforcement mechanism, mitigation, monitoring, and management plans can be difficult to enforce once the project is completed. Even when individual projects comply with post-development mitigation and management plan requirements, the long-term success of the mitigation is subject to unforeseen variables that may interfere significantly with the desired outcome. Other approaches to mitigating significant loss of biological resources are available -- for instance, reducing the development acreage or increasing the minimum lot size that is allowed in the Draft General Plan, or requiring on-site avoidance of sensitive resources as a preferred mitigation option -- but these potential impact-reducing options are not explored or offered as mitigation measures in the DEIR.

EXAMPLES - INADEQUATE OR INEFFECTIVE MITIGATION MEASURES

1. Mitigation measures 4.6-1a (preferred development scenario) and 4.6-1b (maximum development scenario) address the loss of 5,697 acres of agricultural habitat used by Swainson's hawk, other raptors, burrowing owls, and other resident and migratory wildlife species.

The 2008 Draft General Plan Update (GPU) and the DEIR call for 1:1 preservation of suitable habitat (equal or better quality) through mitigation banking (purchase of credits in a managed foraging habitat preserve) or purchase of conservation easements, and calls for the establishment of habitat preserves.

57-A

57-B

Mitigation by buying managed preserve credits at a 1:1 ratio does not adequately offset the loss of existing habitat for a number of reasons. First, managed habitat typically takes a number of years to develop target habitat characteristics (e.g., suitable mature trees for nesting, established native grassland) lost to development. The time that it takes for the target habitat to develop from mitigation plantings or managed land constitutes a temporal loss or diminution of wildlife habitat value and resources. Increasing the replacement ratio is a commonly employed tradeoff intended to offset the temporal loss of habitat value, although I know of no scientific research that supports that assumption. However, following common mitigation practice, to compensate for temporal loss and potential management failures, required mitigation ratios should be set at a minimum of 2:1 for equal or better quality compensation habitat, and 3:1 or greater when the conservation or preserve habitat is of lesser value.

57-B
Cont'd.

57-C

Second, managed habitats often fail to meet management objectives despite good plans and the best of intentions. Restoration projects are more often than not beset with unexpected failures and other surprises, such as irrigation failures and rainfall deficits; disease, heavy browse, and other mortality of revegetation plantings; bad timing or omission of seasonal mowing; introduction of new exotic species that overrun the habitat (red fox, star thistle, peppergrass); loss of funding due to investment failures; and natural processes like erosion, fire, and flood. Acquiring credits in an existing mitigation bank or acquiring suitable habitat and preserving it from future development may realistically provide mitigation; assuming that future management of unspecified and undefined habitat will provide suitable habitat features to offset current project impacts is not valid mitigation.

57-D

Third, the DEIR and the GPU should specify that land acquired for mitigation should be land that would otherwise be subject to development. Using acreage that is already protected from development for mitigation credit does nothing to offset the development loss, because the "credit" acreage would be maintained as available habitat in any event. Loss of habitat is offset only if commensurate acreage that otherwise would be subject to development is preserved from future development.

Total loss of agricultural lands that would be possible under both the Preferred Plan and Maximum Development Scenario is shown in the DEIR Table 4.6-3 as 5,697 acres; the DEIR states that this conversion would result in the loss of habitat for Swainson's hawk, other raptors, burrowing owls, and other resident and migratory wildlife species. It is not possible at present to mitigate that loss of sensitive wildlife habitat on agricultural lands at even at a 1:1 ratio by using existing mitigation banks. The USFWS and CDFG maintain lists of approved mitigation banks servicing Solano County. At present there is only one mitigation bank selling credits specifically to offset loss of Swainson's hawk and burrowing owl habitat. There are only 1800 acres available for credit at this particular bank, not all of those credits may be valid for Swainson's hawk and burrowing owl, and Solano County may not necessarily be included in the bank's service area for those two taxa.

57-E

The few other mitigation banks that service Solano County sell no Swainson's hawk, burrowing owl, or raptor foraging habitat, but they do sell vernal pool, vernal pool invertebrate, valley elderberry longhorn beetle, and Clean Water Act Section 404 wetland credits. Total acreage of these other combined mitigation credits approximately equals 3400 acres, although not all of these credits may be available for use in Solano County. Table 4.6-3 in the DEIR shows potential habitat conversion by habitat type at buildout authorized by the 2008 GPU. Vernal Pool Grassland conversion alone is projected to be 2,375 acres. While the 2008 GPU, the DEIR, and often the US Army Corps of Engineers may authorize a mitigation compensation ratio of 1:1, other regulatory agencies with jurisdiction over vernal pools and other isolated wetlands (California Department of Fish and Game, Regional Water Quality Control Board) typically require mitigation at 2:1, 3:1, or more, depending on the value of the lost resource and the compensatory habitat. At a ratio of 2:1, there are not enough vernal pool credits currently available to mitigate for loss of vernal pool wetlands (see more discussion of vernal pool impacts and mitigation below, at #4).

Because the DEIR mitigation cannot be accomplished using existing mitigation banks, those mitigation measures proposed in the DEIR are contingent on future development of additional preserve habitat to provide the needed offset. The DEIR does not provide substantial evidence to support a conclusion that sufficient mitigation acreage will be created in the future to offset the impacts of the GPU. In fact, the current process the trustee agencies pursue while approving mitigation banks is time-consuming and expensive, and there is no guarantee that suitable land will be available for mitigation nor that enough mitigation credits will come online in the future to meet the requirements of Mitigation Measures 4.6-1a and 4.6-1b.

Relying on future creation of resource management areas that are not official mitigation banks does not assure accountability, management consistency, and reliable funding, all of which can vary depending on the long-term management entity tasked with their implementation and management *in perpetuity*.

Alternatives to simply requiring the preparation of mitigation and monitoring plans or acquiring or managing habitat in a non-existent habitat preserve should be specified in the EIR, as discussed above.

2. Mitigation measures 4.6-2a (preferred plan) and 4.6-2b (maximum development scenario) address the projected loss of upland grassland, oak woodland, oak savanna, and scrub/chaparral habitats from projected development allowed by both the preferred and the maximum development scenarios of the DEIR.

As mitigation to offset significant impacts to upland grassland, oak woodland, oak savanna, and scrub/chaparral habitats, the DEIR proposes that individual project applicants prepare and implement mitigation and management plans. With no mechanism or provision for enforcement, mitigation projects are often abandoned and ongoing management is left unfunded once the project is complete. Lead agencies and

57-E

57-F

resource protection agencies are typically understaffed and underfunded and unable to give mitigation enforcement adequate follow-through. Implementing a resource management plan in perpetuity is a good idea in theory but very difficult to realize in practice. A better approach to mitigating development loss of upland grassland, oak woodland, oak savanna, and scrub/chaparral habitats would be to increase the minimum lot size, cluster development, and pursue other options that involve avoidance of loss and preservation of habitat *in situ*.

57-F

3. While the above comments specifically address inadequacies in Mitigation Measures 4.6-1a and 4.6-1b and 4.6-2a and 2b, similar criticism regarding reliance on unenforceable mitigation and management plans also applies to Mitigation Measures 4.6-4a and 4b (aquatic and wetland habitats, associated special status species), 4.6-5a and 5b (seasonal wetlands), 4.6-6a and 6b (marsh and tidal flat habitat), and 4.6-12a and 12b (noxious weeds and other exotics).

57-G

4. Mitigation measures 4.6-3a and 4.6-3b address the loss or reduction in habitat values of 8,389 acres of valley floor grassland and 2,375 acres of vernal pool grassland habitats.

The DEIR proposes providing compensatory mitigation at a 1:1 ratio through a combination of preservation and construction and restoration of vernal pool habitat. Claypan and hardpan vernal pools are developed on soils that have weathered in place over many centuries, developing the characteristic hardpan through chemical precipitation of percolating rainfall and groundwater. Similarly, native bunchgrass grasslands are mature vegetational communities. Research at Hastings Reserve, the U. C. Berkeley biological research preserve, has found that individual bunchgrasses can be as much as 100 years old. Both native grasslands and vernal pool communities have a complex soil structure with a rich, diverse suite of microorganisms. Construction or restoration of either vernal pools or native grasslands with their full complement of resource values is not technically possible. Constructed and restored pools can be built that offer many habitat attributes, but they cannot be equated with undisturbed examples of either type.

57-H

Loss of unique vernal pool habitat cannot be completely offset by the mitigations proposed in the DEIR. As an alternative to constructing habitat, the DEIR should emphasize a reduction in direct impacts. Loss of vernal pools and other wetlands should be mitigated by increasing the minimum lot size, clustering development, and pursuing other options that involve avoidance of loss and preservation of habitat *in situ*.

The mitigation measure also identifies replanting or propagating special status plant species and construction of specialized habitats for vernal pool invertebrates and California tiger salamander as potential compensatory measures. Replanting or propagating special status plants and construction of specialized wildlife habitat are unreliable measures, since sensitive taxa typically have specialized habitat requirements not readily duplicated elsewhere. Further, this mitigation measure requires post-project monitoring to ensure success, but does not require contingency planning and fails to establish criteria by which success should be measured.

57-I

57-J

As discussed above, there are not enough existing vernal pool mitigation bank credits currently available in Solano County to offset loss of 2,375 acres of vernal pool grasslands and their associated sensitive plants and animal species.

57-J
Cont'd.

SIGNIFICANCE OF IMPACTS WITHOUT MITIGATION

The DEIR fails to provide reliable mitigation to offset numerous significant impacts to biological resources by placing undue weight on the development of mitigation and monitoring plans, and by assuming that there will be adequate managed preserve habitat available to compensate for conversion of certain specialized habitats. Without adequate mitigation, the conversion of thousands of acres of valuable wildlife, wetland, and sensitive species habitat identified in the DEIR will result in a number of impacts that surpass the CEQA thresholds of significance (see page 4.6-29 of the DEIR). More specifically, reliance on unmanaged and unenforced mitigation plans will have a substantial adverse effect on special status species (e.g., Swainson's hawk, burrowing owl); have a substantial effect on jurisdictional wetlands and vernal pool habitat; and may substantially contribute to the spread of noxious weeds.

57-K

Rather than emphasizing a mitigation strategy that is unlikely to succeed, the DEIR should pursue other mitigation options more thoroughly by 1) reducing the development acreage or increasing the minimum lot size that is allowed in the Draft General Plan Update, and 2) requiring on-site avoidance of sensitive resources as a preferred mitigation option.

57-L

57-M

Please let me know if you have questions or comments, or if you would like additional information.

best regards,



Diane L. Renshaw
Consulting Ecologist
Certified Senior Ecologist, Ecological Society of America

- 60-1 The comment is noted.
- 60-2 Please refer to Master Response F, “CEQA Requirements Regarding Recirculation” in Chapter 2. The County disagrees that recirculation is required.
- 60-3 The comment is noted. It is recognized that the traffic consultant hired by the commenter does not appear to have experience with traffic and circulation analysis related to General Plans.
- 60-4 The commenter charges that the assumptions about the future roadway system are vague and confusing. The list of roadway improvements includes the analysis of those that are likely to be in place by the target date of the projection as directed by the Solano Transportation Authority (STA). The assembling of this list does not vary between alternatives in the 2008 Draft General Plan, and is considered a background condition. The analysis is based upon the Solano-Napa model, provided by the STA. This travel forecasting model has network assumptions from funded major regional projects planned by 2030, as well as those funded by local governments in Solano County through traffic development fees. The assumptions in the DEIR analysis include projects and land uses identified by the STA through the acceptance of the Napa/Solano Travel Model and are available through STA. Additional projects for transit, bicycle, and pedestrian improvements are incorporated by reference through the STA planning and programming process. The project list was accepted by the SSTA Board in June 2008. Thus, further project justification is not required.
- 60-5 The commenter suggests that the future roadway network assumptions are not defined. The commenter gives an example from the Marin Countywide Plan. A master list of project assumptions is available from the supporting technical documentation. Marin County has much slower growth than Solano County, and fewer roadway widening projects being undertaken by local jurisdictions.
- 60-6 The commenter states that the traffic impacts are underestimated. For this program EIR, the 2008 Draft General Plan thresholds of significance that are applied are the Level of Service criteria, as established in the adopted standards of Solano County. There is no adopted significance threshold that defines any other standard other than Level of Service. Thus, the need to mitigate traffic on the basis of a newly created threshold is not appropriate. County traffic study guidelines for development proposals can set more stringent thresholds, if desired.
- 60-7 The commenter suggests that 25 segments were not identified as having an impact, without a different standard. For this program EIR, the 2008 Draft General Plan thresholds of significance that are applied are the Level of Service criteria, as established in the adopted standards of Solano County. There is no adopted significance threshold that defines any other standard other than Level of Service. Thus, the need to mitigate traffic on the basis of a newly created threshold is not appropriate. County traffic study guidelines for development proposals can set more stringent thresholds if desired.
- 60-8 Please refer to the response to Comment 60-7.
- 60-9 The comment states that using average daily traffic is not acceptable. The ADT standards set by the County have as their origin peak hour volumes of traffic when developing the standard. The

traffic forecasts used in the DEIR are based on the Napa/Solano Phase 2 Traffic Model prepared under the sponsorship of the Solano Transportation Authority. The Solano-Napa model produces travel forecasts for a.m. and p.m. peak hours. However, given the programmatic nature of the EIR, the forecasts included in the Solano-Napa model were used as a basis of projecting average daily traffic. The County elected to use average daily traffic for this application because it believes a more detailed analysis is not appropriate at a general plan level, and the County design standards are defined as average daily traffic. The average daily traffic analysis approach is commonly used in general plans to evaluate impacts and compare land use alternatives, especially for a large jurisdiction expecting to experience substantial growth, as is the case with Solano County. General plans are, by definition, general in nature. Given the amount of growth anticipated in the Solano County 2008 Draft General Plan, it would be practically impossible to develop detailed information on specific locations and combinations of land uses that would be needed for comprehensive peak hour analysis. The analytical approach of the DEIR is a standard transportation practice and in no instance does the analysis intentionally understate the impacts of the proposed 2008 Draft General Plan.

To the extent the commenter may be implying that the DEIR's traffic impacts would be more severe than shown if peak hour intersection analyses were conducted, such an analysis would have required a series of highly speculative assumptions far too detailed for a general plan level and would likely have resulted in an inaccurate assessment (perhaps more or less severe) of impacts, potentially misinforming the public and decision makers. Peak hour analyses are appropriate for project-level assessments, such as those conducted for site-specific EIRs where much more detail is available for items highly influential in peak-hour analyses, including precise land uses, driveway locations, traffic signal timing and phasing, etc. As a matter of course, the County employs peak hour models and intersection analyses for a variety of more detailed applications, such as signal timing improvements, project-level EIRs, site plan reviews, and road improvement standards.

- 60-10 The commenter states that intersection LOS analysis is needed, in addition to the segment analyses contained in the DEIR. The commenter speculates that the traffic impacts are more severe than is disclosed. The methods by which the 2008 Draft General Plan was developed examined roadway segments rather than intersections as a planning document. The fact that Marin County may have chosen to use a peak level traffic analysis method for its general plan EIR is not definitive as to whether this method would yield more accurate results and a different significance conclusion in the DEIR for the Solano County 2008 Draft General Plan. In addition, the two examples cited by the commenter were for proposed development projects, not a general plan: an oil refinery in the appellate case of *Citizens to Pres. the Ojai v. County of Ventura* (1985) 178 Cal.App.3d 421 and a rural residential development in the Rockville Trails EIR. Finally, the nature of many of the proposed land uses, such as agricultural activity, is better analyzed by examining average daily traffic conditions. Please also refer to Response to Comment 60-9.
- 60-11 The commenter requests an interim year analysis, prior to 2030. The County's decision to exclude interim-year analyses was based on the level of detail it felt was appropriate at this stage of the planning process. While it may at first seem counter-intuitive, the fact is that there is more speculation involved in analyzing interim year scenarios (whether 2015, 2025, or some other year), than there is in analyzing the 2030 scenario. The 2030 scenario reflects a full build-out of the proposed General Plan; one can think of the plan as a puzzle, and the 2030 scenario assumes that every puzzle piece is in place. An interim year scenario would require that the County speculate about the timing, location, and extent of new development that would occur by that specific year; only some of the puzzle pieces would be in place, and the County would have to speculate about which ones. Whereas the 2030 analyses essentially include a buildout of the

County, interim-year analyses would require an inappropriate level of speculation that could lead to conclusions about the timing, location, and extent of new development such that conclusions may misinform the public and decision-makers about the impacts of the proposed General Plan. As a matter of course, the County may require interim-year analyses, such as an assessment of existing conditions plus approved projects, for more detailed applications such as project-level EIRs.

60-12 The commenter requests information on how concurrency would be achieved between needed interim improvements and land use changes. The nature of a general plan analysis is a long-range guidance document. The EIR is based upon what are reasonable assumptions of the 2008 Draft General Plan buildout to disclose a potential maximum impact. The timing of land use development and related roadway improvements is based upon market conditions and designated available funding. Projects would be implemented through a combination of regional programming of projects by STA, local city development fee programs, and other developer funding as a result of site traffic impact analysis studies. Thus, there is no basis for an interim analysis that would create an impact more adverse than the build-out condition.

60-13 The comment asserts that roadway projects are not required to be implemented under the DEIR, that policies have no effect on impacts, that each roadway does not have a specific mitigation, and that other alternatives exist. The assembling of this list does not vary between alternatives in the 2008 Draft General Plan, and is considered a background condition. The analysis is based upon the Solano-Napa model, provided by the Solano Transportation Authority (STA). This travel forecasting model has network assumptions from funded major regional projects planned by 2030, as well as those funded by local governments in Solano County through traffic development fees. The assumptions in the DEIR analysis include projects and land uses identified by the STA through the acceptance of the Napa/Solano Travel Model and are available through STA. Additional projects for transit, bicycle, and pedestrian improvements are incorporated by reference through the STA planning and programming process. The project list was accepted by the STA Board in June 2008. Thus, further project justification is not required.

Further, the DEIR determines that no additional roadway projects are required to be implemented as a result of adopting the 2008 Draft General Plan. The DEIR also discloses each impact through the text, so that separation of the impact into separate impacts is not required for a broad policy document. Specific mitigations (if appropriate) would be determined through development proposals and related traffic studies.

60-14 The commenter asserts that implementation of improvements in other jurisdictions is not assured. The commenter requests that the cost of new traffic mitigations be fully analyzed regardless of whether or not there is an impact between the project and no project condition. The inability to mitigate Level of Service D, E, or F (Impacts 4.4-1a and 4.4-1b) results from a combination of various situations. The amount of development contributing to increased congestion would occur within local jurisdictions, outside of the land uses proposed in the 2008 Draft General Plan. The 2008 Draft General Plan includes policies for developments in the unincorporated portion of Solano County to contribute to the fair-share impacts, but local jurisdictions would also need to participate to develop any program. Because many of the needed improvements would be funded substantially with project development fees in those other local jurisdictions, the County cannot guarantee their implementation, nor can funding for these projects be guaranteed. Therefore, the DEIR conservatively concluded that Impacts 4.1-4a and 4.4-1b would be significant and unavoidable. Please refer to Response to Comment 12-6.

60-15 The commenter asserts that policies do not effectively reduce project impacts. The 2008 Draft General Plan contains broad measures, policies and programs. Solano County's proposed mitigation measures, policies, and programs do not leave readers in the dark as to what mitigation

will occur. Rather, where details are not currently available, the mitigation measures, policies, and programs set forth specific performance standards that the mitigation must achieve and require monitoring and benchmarks to ensure that those standards will be achieved. These policies would be applied through development review, specific project proposals and related studies on these. The policies proposed in this General Plan cannot significantly reduce impacts of anticipated congestion as most development is projected to occur outside of the jurisdiction of unincorporated Solano County. As noted in Comment 60-17, "CEQA requires that the mitigations would not reduce the impact to less than a significant level, as long as the measure would have some mitigating effect."

60-16 The commenter declares that each impact should have a proposed mitigation. It is reasonable to group impacts together if the impacts are the same or substantially similar. The DEIR determines that no additional roadway projects are required to be implemented as a result of adopting the 2008 Draft General Plan. Because the impacts are similar in character, the grouping is appropriate. Specific mitigations to localized traffic operations issues would be analyzed through traffic studies associated with site-specific project developed under the General Plan.

60-17 The commenter asserts that there are feasible mitigations that would significantly reduce project and cumulative traffic impacts that should have been included in the DEIR. The strategies listed in the San Carlos report ("Traffic Impacts and Mitigation Strategies") are specific and unique to this setting, and are provided as a guidebook to potential strategies and not an element that can be implemented in a general plan. Strategies that reduce commute distances and commute times; reduce automobile use, especially single-occupant vehicle automobile trips; encourage and support the use of transit; and encourage the use of bicycles and walking as an alternative mode of transportation are included in the policies of the General Plan update. Nothing in the 2008 Draft General Plan precludes the development of such a list of strategies and benefits for Solano County, set in a manner that is more appropriate to lower density, rural development anticipated in this 2008 Draft General Plan.

60-18 The commenter states that DEIR fails to provide feasible mitigation for potential air quality impacts. However, as stated on 4.2-23 of the DEIR:

“However, the control measures are not a requirement of approval. As a result, construction-related emissions of fugitive dust could violate an air quality standard, contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations.”

This statement indicates that the commenter is correct in that currently, control measures are not a requirement for approval. The purpose of MM 4.2-1a(1) and 4.2-1a(2) is to ensure that all recommended supplemental control measures, on top of those already required for approval by the BAAQMD and YSAQMD, are required. This is indicated in the first paragraph of MM 4.2-1a(1) and 4.2-1a(2) provided below. Implementation of these measures would reduce ROG, NO_x and PM₁₀ to the extent feasible at the time of construction. For the complete text of MM 4.2-1a(1) and 4.2-1a(2), please see pages 4.2-24 and 25 of the DEIR.

Mitigation Measure 4.2-1a(1): Require Implementation of Supplemental Measures to Reduce Construction-Related Exhaust Emissions.

In addition to the measures recommended by BAAQMD and YSAQMD for construction emissions of PM₁₀ and incorporation into the 2008 Draft General Plan under Program HS.I-60, the County shall require each project applicant, as a condition of project approval, to implement the following measures to further reduce exhaust emissions from construction-related equipment:

- ▶ Commercial electric power shall be provided to the project site in adequate capacity to avoid or minimize the use of portable gas-powered electric generators and equipment.
- ▶ Where feasible, equipment requiring the use of fossil fuels (e.g., diesel) shall be replaced or substituted with electrically driven equivalents (provided that they are not run via a portable generator set).
- ▶ To the extent feasible, alternative fuels and emission controls shall be used to further reduce NOX and PM10 exhaust emissions.
- ▶ On-site equipment shall not be left idling when not in use.
- ▶ The hours of operation of heavy-duty equipment and/or the amount of equipment in use at any one time shall be limited.
- ▶ Construction shall be curtailed during periods of high ambient pollutant concentrations; this may involve ceasing construction activity during the peak hour of vehicular traffic on adjacent roadways or on Spare the Air Days.
- ▶ Staging areas for heavy-duty construction equipment shall be located as far as possible from sensitive receptors.
- ▶ Before construction contracts are issued, the project applicants shall perform a review of new technology, in consultation with BAAQMD and YSAQMD, as it relates to heavy-duty equipment, to determine what (if any) advances in emissions reductions are available for use and are economically feasible. Construction contract and bid specifications shall require contractors to utilize the available and economically feasible technology on an established percentage of the equipment fleet. It is anticipated that in the near future, both NOX and PM10 control equipment will be available.

Mitigation Measure 4.2-1a(2): Require Implementation of Supplemental Measures to Reduce Fugitive PM₁₀ Dust Emissions.

In addition to the required basic control measures, the County shall require each project applicant, as a condition of project approval, to implement the following enhanced and additional control measures recommended by BAAQMD and YSAQMD to further reduce fugitive PM₁₀ dust emissions.

60-19 Please refer to Response to Comment 60-18.

60-20 Comment 60-20 states that two mitigation measures are recommended by the DEIR and recommends 23 additional construction control measures. The current DEIR ensures that all existing and future mitigation of construction emissions recommended by the EPA, ARB, BAAQMD and YSAQMD would be incorporated into projects subject to the 2008 Draft General Plan. In fact, the DEIR recommends 17 control measures within MM 4.2-1a(1) and 4.2-1a(2). The control measures in MM 4.2-1a(1) and 4.2-1a(2) are in addition to those required by the BAAQMD and YSAQMD. Of the 23 measures recommended by comment 60-20, five (comment 60-20 bullets 2, 7, 10, 18, 20) were already included in MM 4.2-1a(1) and 4.2-1a(2). Measure 19 recommended by comment 60-20 could have other adverse environmental affects, such as unnecessary paving of land for construction purposes. All other measures recommended by comment 60-20 are reasonable and feasible. Therefore, Mitigation Measure 4.2-1a(2) is revised as follows:

Mitigation Measure 4.2-1a(2): Require Implementation of Supplemental Measures to Reduce Fugitive PM₁₀ Dust Emissions.

In addition to the required basic control measures, the County shall require each project applicant, as a condition of project approval, to implement the following enhanced and additional control measures recommended by BAAQMD and YSAQMD to further reduce fugitive PM₁₀ dust emissions:

- ▶ Hydroseeding shall be used or nontoxic soil stabilizers shall be applied to inactive construction areas (previously graded areas inactive for 10 days or more).
- ▶ Exposed stockpiles (e.g., dirt, sand) shall be enclosed, covered, or watered twice daily, or nontoxic soil binders shall be applied to such stockpiles.
- ▶ Traffic speeds on unpaved roads shall be limited to 15 mph.
- ▶ Sandbags or other erosion control measures shall be installed to prevent runoff of silt to public roadways.
- ▶ Vegetation shall be replanted in disturbed areas as quickly as possible.
- ▶ Wheel washers shall be installed on all exiting trucks, or the tires or tracks of all trucks and equipment leaving the site shall be washed off.
- ▶ Windbreaks shall be installed or trees/vegetative windbreaks shall be planted at windward side(s) of construction areas.
- ▶ Excavation and grading activity shall be suspended when winds (instantaneous gusts) exceed 25 mph.
- ▶ The area subject to excavation, grading, and other construction activity at any one time shall be limited, as necessary.
- ▶ For backfilling during earthmoving operations, water backfill material or apply dust palliative to maintain material moisture of to form crust when not actively handling; cover or enclose backfill material when not actively handling; mix backfill soil with water prior to moving; dedicate water truck or large hose to backfilling equipment and apply water as needed; water to form crust on soil immediately following backfilling; and empty loader bucket slowly; minimize drop height from loader bucket.
- ▶ During clearing and grubbing, pre-wet surface soils where equipment will be operated; for areas without continuing construction, maintain live perennial vegetation and desert pavement; stabilize surface soil with dust palliative unless immediate construction is to continue; and use water or dust palliative to form crust on soil immediately following clearing/grubbing.
- ▶ While clearing forms, use single stage pours where allowed; use water spray to clear forms; use sweeping and water spray to clear forms; use industrial shop vacuum to clear forms; and avoid use of high pressure air to blow soil and debris from the form.
- ▶ During cut and fill activities pre-water with sprinklers or wobblers to allow time for penetration; pre-water with water trucks or water pulls to allow time for penetration; dig a test hole to depth of cut to determine if soils are moist at depth and continue to pre-water if not

moist to depth of cut; use water truck/pull to water soils to depth of cut prior to subsequent cuts; and apply water or dust palliative to form crust on soil following fill and compaction.

- ▶ For large tracts of disturbed land, prevent access by fencing, ditches, vegetation, berms, or other barriers; install perimeter wind barriers 3 to 5 feet high with 50% or less porosity; plant perimeter vegetation early; and for long-term stabilization, stabilize disturbed soil with dust palliative or vegetation or pave or apply surface rock.
- ▶ In staging areas, limit size of area; apply water to surface soils where support equipment and vehicles are operated; and limit ingress and egress points. For stockpiles, maintain at optimum moisture content; remove material from downwind side; avoid steep sides or faces; and stabilize material following stockpile-related activity.
- ▶ To prevent trackout, pave construction roadways as early as possible; install gravel pads; and limit site access.
- ▶ Where feasible, use bedliners in bottom-dumping haul vehicles.
- ▶ Grade each phase separately, timed to coincide with construction phase or grade entire project, but apply chemical stabilizers or ground cover to graded areas where construction phase begins more than 60 days after grading phase ends.
- ▶ During initial grading, earth moving, or site preparation, projects 5 acres or greater may be required to construct a paved (or dust palliative treated) apron, at least 100 ft in length, onto the project site from the adjacent site if applicable.
- ▶ Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 24 hrs.
- ▶ Prior to final occupancy, the applicant demonstrates all ground surfaces are covered or treated sufficiently to minimize fugitive dust emissions.
- ▶ Gravel pads must be installed at all access points to prevent tracking of mud on to public roads.
- ▶ Prior to land use clearance, the applicant shall include, as a note on a separate informational sheet to be recorded with map, these dust control requirements. All requirements shall be shown on grading and building plans.
- ▶ All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- ▶ Permanent dust control measures in an approved project revegetation and landscape plan should be implemented as soon as possible following completion of any soil disturbing activities.
- ▶ Exposed ground areas that are planned to be reworked at dates greater than 1 month after initial grading should be sown with a fast-germinating native grass seed and watered until vegetation is established.
- ▶ Require a dust control plan for earthmoving operations.

60-21 The commenter states that using best available control technologies (BACT) for NO_x emissions is not required. Under the DEIR, construction related emissions of NO_x are required to use all available BACT under MM 4.2-1a(1). Specifically, Bullet 8, provided below for the commenter to review.

- ▶ Before construction contracts are issued, the project applicants shall perform a review of new technology, in consultation with BAAQMD and YSAQMD, as it relates to heavy-duty equipment, to determine what (if any) advances in emissions reductions are available for use and are economically feasible. Construction contract and bid specifications shall require contractors to utilize the available and economically feasible technology on an established percentage of the equipment fleet. It is anticipated that in the near future, both NO_x and PM₁₀ control equipment will be available.

60-22 Please refer to the response to Comment 60-11.

Comment 60-21 states that using best available control technologies (BACT) for NO_x emissions is not required. Under the DEIR, construction related emissions of NO_x are required to use all available BACT under MM 4.2-1a(1). Specifically, please refer to Bullet 8, provided below.

- ▶ Before construction contracts are issued, the project applicants shall perform a review of new technology, in consultation with BAAQMD and YSAQMD, as it relates to heavy-duty equipment, to determine what (if any) advances in emissions reductions are available for use and are economically feasible. Construction contract and bid specifications shall require contractors to utilize the available and economically feasible technology on an established percentage of the equipment fleet. It is anticipated that in the near future, both NO_x and PM₁₀ control equipment will be available.

60-23 Comments 23 and 24 state that the DEIR does not analyze the severity of the 2008 Draft General Plan's inconsistencies with regional air quality plans.

The commenter states that the 2008 Draft General Plan would exceed significance criteria by 3,000%. While technically this is true, the significance standards that the 3,000% increase is based on are generally interpreted as project level emission standards. It is assumed that the 2008 Draft General Plan modeling encompasses all project level emissions and the modeling is meant to be interpreted as the summation of all development that would occur over the life of the 2008 Draft General Plan. There are no current maximum emission thresholds for general plan level documents. It is because of this that all state and local air district guidance should be implemented and followed, as stated by MM 4.2-2a, to ensure that the best possible methods are being used.

Modeling conducted for criteria air pollutants was conducted based on vehicle miles traveled (VMT) changes and land-use acreage changes. It was then compared to the existing projections for Solano County, as noted in Impact 4.2-2a, Paragraph 4. The outcome was determined significant as a result of this comparison. While the VMT quantities were not included in the impact discussion, they are available for review in Appendix B, and the referenced source, ABAG 2005.

The 2008 Draft General Plan includes an Air Quality section with numerous land use and circulation policies that seek to reduce air pollution and minimize the air quality impacts of new development. Similar policies, which intend to reduce per-capita VMT and accommodate more sustainable travel options, are included throughout the 2008 Draft General Plan. The 2008 Draft General Plan includes policies and implementation strategies that encourage pedestrian and

transit-friendly development in order to reduce Solano County's residents' dependence on automobiles. Other policies prioritize infill of existing neighborhoods, and encourage urban development to occur adjacent to existing urbanized areas. The 2008 Draft General Plan includes policies to take advantage of existing and future transit opportunities. In addition, the 2008 Draft General Plan focuses on mixed-use land uses that would promote alternative modes of transportation and contains policies and programs that, if adopted and implemented, would act to help reduce motor vehicle use from new development. This would in turn reduce the rate of vehicle miles traveled from trips generated in Solano County.

Many of the goals, policies, and programs mentioned above are listed on page 4.2-27. These goals, policies, and programs, in addition to Mitigation Measure 4.2-2a on page 4.2-28, were designed so that all air quality planning efforts, and VMT reduction strategies would be incorporated when they become available. However, to assist in the clarification of Mitigation Measure 4.2-2a it was revised as part of Response-to-Comment 24-40. The text was revised as follows:

Mitigation Measure 4.2-2a: Coordinate with Air Districts on Assumptions from Air Quality Plan Updates.

The County shall coordinate with BAAQMD and YSAQMD at the earliest opportunity to ensure that all new assumptions from new air quality plan updates are implemented as part of the 2008 Draft General Plan.

The County shall also:

- ▶ Meet air quality standards. Seek to attain or exceed the more stringent of federal or state ambient air quality standards for each measured pollutant.
- ▶ Require mitigation of air quality impacts. Require projects that generate significant levels of air pollutants to incorporate best available air quality mitigation in the project design.
- ▶ Inform local and regional agencies. Notify local and regional jurisdictions of proposed projects in unincorporated areas that may affect regional air quality, as identified by BAAQMD, YSAQMD, and ARB.
- ▶ Evaluate air quality impacts of proposed projects and plans. As part of the environmental review process, use the current applicable air district guidance to evaluate the significance of air quality impacts from projects or plans, and to establish appropriate minimum mitigation requirements necessary for project or plan approval.
- ▶ Assist in the enforcement of air quality standards. Assist the EPA, ARB, and applicable air district with measuring emissions and enforcing the provisions of the Clean Air Act and regional rules and regulations.

60-24 Please refer to Response to Comment 23 above.

60-25 Comments 25 and 26 state that stationary source impacts were not fully analyzed by the DEIR or mitigated to the extent feasible. The DEIR does not dismiss stationary sources or their related pollutants. The DEIR recognizes that stationary sources would exist under the 2008 Draft General Plan, and that they would be reviewed and permitted as directed by YSAQMD Rules 3-1, -4, and -8 and BAAQMD Regulation 2 on an individual basis in order to ensure that the BACT and the most current regulations at time of implementation are used. This is standard air quality practice. By setting strict regulations on stationary sources in the 2008 Draft General Plan for a 20-year

document, the potential for flexibility and evolution in the document is compromised. Flexibility is necessary so that all new methodologies and technologies are implemented in a timely matter.

In addition, modeling every addition, change, upgrade, or removal of stationary sources that may occur over the life of the 2008 Draft General Plan would be infeasible and inaccurate because the level of detail required to conduct such modeling is not available at the program level. Moreover, modeling based on land use acreage changes was conducted using URBEMIS 2007 under area and mobile source emissions. See Impact 4.2-3a and Appendix B for more details.

The stationary sources mentioned in the DEIR, Response to Comment 26-38 and 39, and the other sources mentioned by the commenter would all be subject to individual permitting by the applicable air district, and subsequently be required to implement BACT. The permitting process would reduce all air quality impacts to the extent feasible at the time stationary source construction and operation.

60-26 Please refer to Response to Comment 25 above. Please also see Draft EIR pages 4.2-29 through 4.2-30 explaining that there is no available methodology to reliably estimate stationary-source emissions, but that emissions from stationary sources would be additive to the estimated area-source and mobile-source emissions.

60-27 Comments 60-27, 28, 29, 30 state that CO impacts were not fully analyzed by the DEIR or mitigated to the extent feasible.

At this level of analysis there is no feasible way to predict all affected intersections, and the traffic levels associated with them. This and other data is required to perform a quantifiable viable 'hot spot' analysis. The commenter incorrectly states that MM 4.2-4a defers analysis until after the project is complete. MM 4.2-4a states that:

The County shall require each project applicant, as a condition of project approval, to implement the following mitigation measures, as appropriate:

- ▶ Intersections affected by individual projects shall be evaluated for violations of CO concentration thresholds.

As stated above, a CO analysis is required during the environmental review process of the project-level analysis. This ensures that each individual and cumulative set of projects either mitigates or does not exceed the applicable CO thresholds prior to the time of project implementation.

The commenter states that approximately 44 to 69 intersections may be affected by the 2008 Draft General Plan and that heavily-trafficked intersections may cause CO hotspots. This is true. The commenter then states that all intersections should be modeled using Caline, or other such modeling software. Modeling for CO hotspots is necessary at the project level. At the program level – which is the level of analysis used throughout the DEIR, the data available is insufficient and speculative. Using insufficient data to model CO may cause inaccurate results being used as planning tools, this would be wholly irresponsible and against typical best practice methods for air quality analysis. Instead, at the program level, the DEIR ensures that the CO analysis shall take place, when it is necessary, and shall utilize the best resources and mitigation available at the time of individual project review.

60-28 Please refer to Response to Comment 27 above.

60-29 Please refer to Response to Comment 27 above.

60-30 Please refer to Response to Comment 27 above.

60-31 Comments 60-31, 32, 33 state that TAC impacts were not fully analyzed by the DEIR or mitigated to the extent feasible.

The DEIR identifies the possibility that exposure to TAC's could occur under the 2008 Draft General Plan under Impact 4.2-5a beginning on page 4.2-33. This is based on the fact that many different types of TAC sources exist and their precise locations at this time are unknown.

At this point in the planning process without knowing the exact location, magnitude, and source of TACs, quantification of the pollutants mentioned by the commenter would be speculative and too specific for mitigation purposes at the program level of analysis. Pollutants identified and grouped as TACs for the document are listed in the environmental setting on 4.2-17 and 4.2-18.

BAAQMD and YSAQMD have not set thresholds for the exposure of sensitive receptors to TACs. Without specific guidance for conducting a health risk assessment (HRA), thresholds for HRA results, accounting for the possibility that TAC methods may change over the 2008 Draft General Plan timeframe, and the county being under the jurisdiction of two air management districts, creating detailed policies, may be too specific at this time and could limit analysis and mitigation in the future.

The DEIR does not quantitatively mention the measures recommended by the ARB Air Quality and Land Use Planning Guidebook because doing so would restrict the ability of the County to utilize updates of the Guidelines and other recommendations by other air quality control entities. Instead, the DEIR requires that the most current and applicable guidelines be used during individual project review and permitting, see MM 4.2-5a. This strategy allows for flexibility and evolution of the 2008 Draft General Plan for all future guidelines.

The commenter states that some sources of TACs may not be required to acquire a permit from the BAAQMD and YSAQMD. This is not the case, as stated on page 4.2-18:

Under YSAQMD Rule 3-1 ("General Permit Requirements"), Rule 3-4 ("New Source Review"), and Rule 3-8 ("Federal Operating Permit"), all sources that possess the potential to emit TACs are required to obtain permits from the district. Similarly, permits under BAAQMD Regulation 2 ("Permits") may be granted to these operations if they are constructed and operated in accordance with applicable regulations, including new-source-review standards and air toxics control measures. YSAQMD and BAAQMD limit emissions and public exposure to TACs through a number of programs and prioritize TAC-emitting stationary sources based on the quantity and toxicity of the TAC emissions and the proximity of the facilities to sensitive receptors.

and is restated in Impact 4.2-5a:

These types of stationary sources, in addition to any other stationary sources that may emit TACs, would be subject to BAAQMD's and YSAQMD's rules and regulations. Thus, as discussed above, BAAQMD and YSAQMD would analyze such sources (e.g., health risk assessment) based on their potential to emit TACs. If it is determined that the sources would emit TACs in excess of BAAQMD's and YSAQMD's applicable significance threshold, MACT or BACT would be implemented to reduce emissions. If the implementation of MACT or BACT would not reduce the risk below the applicable threshold, BAAQMD and YSAQMD would deny the required permit.

If a stationary source would not be required to acquire a permit, the emissions from the source would be non-existent or so minimal that it would not be considered a source of TACs.

The DEIR does require as mitigation that proposed projects, “shall incorporate site plans that move sensitive receptors as far as feasibly possible from major roadways (100,000+ average daily trips) and shall follow all applicable state and air district guidance in relation to TAC reduction methods.” This would include all recommended buffer zones and BACT.

The DEIR identifies the two major stationary sources as recorded by the Community Health Air Pollution Information System (CHAPIS). Neither of these sources is the Travis Air Force Base (an area wide source) or the Western Electric Railyard (an area wide source, discussed in a separate heading on page 4.2-35). The two sources are listed in CHAPIS as operated by the Alza Corporation, north of Vacaville, and the Valero Corporation, east of Benicia. While all four of these sources, area or stationary would be or have been subject to their own environmental review, and subsequent mitigation and permitting outside the scope of the 2008 Draft General Plan, the commenter may note that an HRA was conducted for the Valero Corporation in 2002 and concluded that no significant increase in health risk would result from the implementation of Valero Improvement Project, and that their permits from the BAAQMD are current as of May 7, 2008. No HRA has been conducted for Alza Corporation Facility. Their permits are current as of July 14, 2008.

The DEIR does not quantify the risk associated with these sources or any other sources or whether the development of sensitive land uses is proposed in the vicinity of these sources because it is infeasible to conduct an HRA for every existing and future source of TACs. The 2008 Draft General Plan instead is intended to ensure that when proposed land use conflicts occur the proper environmental review, and subsequent TAC analysis, are conducted at that time.

In addition, in Response to Comment 6-2,3,4, MM 4.2-5a states that all sensitive receptors would be placed as far away from TAC sources as feasibly possible. However, further clarification was warranted and therefore, as shown in Chapter 4.2 of this FEIR, the third bullet in the bulleted list on page 4.2-36 of the DEIR was revised as follows:

- ▶ Proposed developments shall incorporate site plans that move sensitive receptors as far as feasibly possible from major roadways (100,000+ average daily trips) and shall follow all applicable state and air district guidance in relation to TAC reduction methods.

60-32 Please refer to Response to Comment 31 above. Contrary to the commenter’s assertion, the DEIR does not look solely to the BAAQMD and the YSAQMD to protect the County’s sensitive land uses. Rather, Mitigation Measure 4.2-5a (and 4.2-5b) requires that the “County shall require each project applicant” to implement the measures listed in the mitigation measure (as modified on FEIR, p. 4-37) Implementation of Mitigation Measure 4.2-5a (and 4.2-5b) will ensure that exposure of sensitive receptors to TACs are reduced.

60-33 Please refer to Response to Comment 31 above.

60-34 The commenter states that the DEIR does not mitigate for cumulative air quality impacts. In this instance the 2008 Draft General Plan buildout conditions analyzed in the individual impact section, 4.2 Air Quality, are in itself an analysis of the cumulative conditions and all feasible mitigation for cumulative impacts would be implemented and covered under the same mitigation from Section 4.2 Air Quality. Mitigation Measures 4.2-1a through 4.2-6a would all apply for the duration of the 2008 Draft General Plan, are written to adapt to changing conditions, and would mitigate all impacts (current through cumulative) to the extent feasible at the time of individual project implementation.

60-35 The commenter discussed the importance of Solano County's water resources and indicated that many of the County's water bodies, including the Delta, Suisun Bay, and San Pablo Bay are

identified as "impaired" on the federal Clean Water Act's section 303(d) list. The comment is noted. Please refer to Master Response O, "Inadequate Water Quality Analysis," beginning on page 2-39 of the FEIR.

60-36 The commenter indicated that the DEIR's analysis of water quality impacts falls short of the good faith effort at disclosure that CEQA requires. The comment is noted. Please refer Master Response O, "Inadequate Water Quality Analysis," beginning on page 2-39 of the FEIR.

60-37 The commenter indicates that the DEIR describes in generic terms and never analyzes the actual and specific consequences to water quality resulting from the particular changes in land uses contemplated by the 2008 Draft General Plan. The comment is noted. Please refer to Master Response O, "Inadequate Water Quality Analysis," beginning on page 2-39 of the FEIR.

60-38 The commenter indicates that the DEIR does not reveal whether implementation of the 2008 Draft General Plan would violate water quality standards or waste discharge requirements, including NPDES waste discharge or stormwater runoff requirements, state or federal anti-degradation policies, enforceable water quality standards contained in the Central Valley RWQCB's basin plan or statewide water-quality control plans, or federal rule makings to establish water quality standards in California. Please refer Master Response O, "Inadequate Water Quality Analysis," beginning on page 2-39 of the FEIR. In particular, see FEIR pages 2-45 through 2-46 discussing the Project's potential to violate any water quality standards or waste discharge requirements.

60-39 The commenter suggested the numerous methods for completing a water quality analysis. Suggestions included the following:

- ▶ Provide information about the proposed land use changes and proximity of proposed land uses to sensitive water.
- ▶ Identify point and nonpoint sources of water pollution for each proposed land use.
- ▶ Identify the amount of acreage attributed to proposed land uses with water quality impacts
- ▶ Identify applicable water quality standards or waste discharge requirements
- ▶ Estimate which land uses generate which pollutants and determined whether an increase in pollutants would impact water bodies

In response to the comment, please refer to Master Response O, "Inadequate Water Quality Analysis," beginning on page 2-39 of the FEIR.

60-40 The commenter states that although a program-level EIR may provide less detail about impacts than a project-level EIR, the DEIR here must offer some meaningful information about the consequences of this 2008 Draft General Plan. Please refer to Master Response O, "Inadequate Water Quality Analysis," beginning on page 2-39 of the FEIR. The County has not avoided analyzing impacts of the 2008 Draft General Plan. Rather, the DEIR and the FEIR provide substantial and meaningful analysis of the Project's environmental impacts and recommend mitigation measures to reduce or avoid those impacts. Please refer to Master Response E, "Programmatic Nature of EIR" and Master Response H, "Mitigation for Significant and Unavoidable Impacts" in Chapter 2 of the FEIR.

60-41 The commenter indicates that the Marin County CWP Draft EIR, Hydrology, Water Quality and Flood Hazards Chapter should be used as a model for revision of the DEIR water quality impact analysis.

In response to the comment, the analysis within the Marin County CWP Draft EIR is considered to be comparable with the revised water quality analysis in the FEIR (See Master Response O– Inadequate Water Quality Analysis), where applicable. A fundamental difference between Solano County and Marin County is that Marin County has established housing overlays and identified several commercial shopping center and subdivision projects for which project-specific impacts can be assessed. This is not the case in Solano County. With the exception of established additional industrial land uses within the future unincorporated County, land uses designations under the 2008 Draft General Plan have not changed from existing land uses. Identification of possible impacts to specific surface water bodies from the increase in residential populations in agricultural areas would be largely speculative because a housing overlay has not been developed and specific projects have not been identified.

60-42 The commenter indicated that the DEIR acknowledges that the potential exists for contamination of groundwater and surface water resources from these systems; however, the analysis of impacts is unclear. In response to the comment, please refer to Section 2.15 - Master Response O: Inadequate Water Quality Analysis, pg. 2-39 in the FEIR.

60-43 The commenter indicates that the DEIR does not describe how individual sewer systems would actually affect the physical environment and makes no attempt to identify the location of these systems or their proximity to receiving waters or describe how these systems could impact water resources. In response to the comment, please refer to please refer to Master Response O, “Inadequate Water Quality Analysis,” beginning on page 2-39 of the FEIR.

In response to the request that the DEIR should identify the location of the systems and the proximity to receiving waters, an identification of actual locations of septic systems that would be installed as part of rural residential or industrial land uses would be largely speculative because specific projects have not been identified; this analysis is more appropriately suited for project-level analysis.

60-44 The commenter indicated that merely promising to comply with agency regulations cannot substitute for a detailed analysis of impacts and does not conclusively demonstrate that a proposed project would not have a significant adverse impact. In response to the comment, please refer to Master Response O, “Inadequate Water Quality Analysis,” beginning on page 2-39 of the FEIR. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 716 is inapposite. There, the respondent city relied on the fact that a local air pollution control district had issued necessary permits for the construction of a coal-fired power plant for the conclusion that the project would not result in significant air quality impacts from mobile sources. However, there was no evidence that the air district considered mobile sources in granting the permits. Therefore, the court held that the respondent city could not invoke a presumption that the project would have no significant air quality impacts from truck or train traffic. (*Id.* at pp. 716-717.) In contrast, here, Solano County has not relied in similar fashion on any granted permit to make a conclusion that the proposed Project would not have significant environmental effects.

60-45 The commenter states that because the DEIR fails to study the implications for on-site sewer systems to degrade water quality, it fails to explore methods for preventing groundwater contamination. The commenter refers to Marin County, which included policies that proposed changes to the land use plan with the goal of reducing land use development on sites near sensitive water resources or on properties lacking public sewer systems. The housing units removed from West Marin would be constructed in areas that have existing sewer service. As a

result, the Marin CWP EIR concludes that additional water quality impacts to sensitive water resources in West Marin from potentially faulty septic systems would be avoided.

In response to the comment, please refer to Master Response O, “Inadequate Water Quality Analysis,” beginning on page 2-39 of the FEIR.

The Marin County CWP EIR discusses several large housing subdivisions and commercial shopping centers. Because specific large housing or commercial development projects, such as the proposed West Marin project, have not been identified and would not likely occur within the unincorporated portion of Solano County because of the orderly growth initiative and established Policies PF.P-18 and PF.P-18 that identify minimum parcel sizes, an evaluation identical to Marin County is not applicable. The following General Plan policies (shown with proposed modifications) adequately protect sensitive water resources:

- ▶ Policy LU.P-14: Establish rural residential development in a manner that preserves rural character and scenic qualities and protects sensitive resources including agricultural lands, creeks, native trees, open spaces, and views.
- ▶ Policy LU.P-26: Locate and develop industrial uses in a manner that does not conflict with adjacent and surrounding agricultural activities and protects water quality and marshland and wetland habitats.
- ▶ Program PF.I-20: Review and revise the County Code to ensure it incorporates current best practices to minimize the impacts of on-site septic systems and sewage treatment systems. This revision should address standards within chapters 6.4, 12.2, 13.10, 26, 28, and 31 of the County code.
- ▶ Program PF.I-21: When reviewing development proposals:
 - require septic systems to be located outside of primary groundwater recharge areas, or where that is not possible, require shallow leaching systems for disposal of septic effluent;
 - require new septic systems or leach fields to be installed at least 100 feet away from natural waterways, including perennial or intermittent streams, seasonal water channels, and natural bodies of standing water, but make an exception for the repair of existing systems if the buffer cannot be maintained and if adequate provisions are made for protecting water quality;
 - require the use of alternative wastewater treatment techniques to respond to site characteristics, as determined by the California Department of Public Health (formerly California Department of Health Services) and the RWQCBs; and
 - require new development with septic systems to be designed to prevent nitrates and other pollutants of concern from septic disposal systems from impairing groundwater quality.
- ▶ Program PF.I-22: On-site sewage disposal systems for individual lots and subdivisions may be operated by private property owners. A public agency or public utility shall ~~permit and~~ manage centralized community sewage disposal systems. If lands proposed to be served by a ~~for~~ community sewage disposal systems are not within the boundaries or service area of an existing public sewage treatment agency or utility, the Board of Supervisors shall, as a condition of development, designate a public agency to provide and manage the sewer

~~service, which may be contracted to a private entity with oversight by the public agency.~~ Sewer treatment facilities shall be designated to provide sewer service to existing developed areas to address health and safety hazards, areas designated for commercial or industrial uses, or areas designated for rural residential development when part of a specific plan, policy plan overlay, or planned unit development and areas designated for future development within the General Plan. An analysis of the financial viability to construct, operate, and maintain a proposed community sewage disposal system shall be required.

- ▶ Program PF.I-23: Continue to enforce the abatement of ailing septic systems that have been demonstrated as causing a health and safety hazard.
- ▶ Program PF.I-24: Continue inspection of individual sewage facilities to ensure they are not adversely affecting water quality.

60-46

The commenter indicates that the discussion of interference with groundwater recharge is insufficient. In response to the comment, the impact analysis beginning on page 4.5-53 of the DEIR has been modified as follows:

Development and land use changes consistent with the 2008 Draft General Plan under the Preferred Plan could potentially reduce the amount of recharge of rainfall to local aquifers through construction of buildings, driveways, roads and other directly connected impermeable surfaces that inhibit infiltration and redirect runoff would result in additional impervious surfaces, the diversion of groundwater to surface water through subsurface drainage features or localized dewatering measures, and a potential increase of private wells. As a result, levels of groundwater recharge in some Solano County groundwater basins would decline. Reductions in groundwater recharge capability in a given area could affect availability of groundwater supplies, the yield of hydrologically connected wells, and have adverse effects on sensitive plant communities and surface water bodies.

Because of minimum lot size requirements have been established under PF.P-18 and PF.P-19 for new rural residential development, the reduction of groundwater recharge capability is somewhat minimized because large continuous areas of impervious surfaces would not be allowed for new rural residential development proposed under the 2008 General Plan. New industrial, commercial, or public use development proposed under the 2008 Draft General Plan within the unincorporated portions of the County could potentially require large areas of impervious surfaces; however, established County Ordinances and Policies and Programs under the 2008 Draft General Plan would minimize or eliminate interference with groundwater recharge by requiring that development plans include elements that limit runoff and increase infiltration and groundwater recharge. Policies would also increase the use of stormwater detention as a possible source of groundwater recharge.

Groundwater Recharge Use Provisions

Grading and Erosion Control, Chapter 31. Ordinance which provides standards, permitting, and enforcement for controlling soil erosion, sedimentation, storm water runoff, and environmental damage associated with construction and maintenance of fills, excavations, and clearing of vegetation, and enforcement of projects which change the topography and drainage of land. Article III Section 31-30 (i) requires new development that creates impervious surfaces in excess of 5,000 square feet must insure that surface runoff rates exceeding predevelopment levels shall be retarded by appropriate structural and vegetative measures to be maintained on an annual basis. Chapter 31 also required that development plans identify project-specific mitigation measures that result in no net increase in peak runoff as a result of the project.

Solano County Road Improvement Standards (adopted June 12, 2001). Regulations which provide standards for construction of public and private roads and drainage facilities, conditions applicable to Use Permitting, and conditions applicable to subdivisions of land.

~~Amendments to SB 318 (see “Urban Water Management Planning Act” in Section 4.5.2, “Regulatory Framework,” above) address drought contingency planning, water demand management, reclamation, and groundwater resources. Under the current law, all urban water suppliers with more than 3,000 service connections or water use of more than 3,000 afy are required to submit an UWMP to DWR every 5 years, which will ensure that groundwater is used at a sustainable rate.~~

Conclusion

Adoption and implementation of existing groundwater recharge provisions and the proposed goals, policies, and programs in the 2008 Draft General Plan would provide adequate provisions to ~~would~~ reduce the potential for impacts on groundwater recharge levels that would result from increased impervious-surface coverage. ~~in areas that contribute to groundwater recharge.~~ These measures include maintaining areas important to groundwater recharge and incorporating engineering and design standards for projects that would promote infiltration and maintain adequate levels of groundwater recharge. Therefore, this impact would be less than significant.

Mitigation Measure

No mitigation beyond the 2008 Draft General Plan policies and programs is required.

60-47 Please refer to response to comment 60-46.

60-48 The commenter indicates that the that the analysis of groundwater recharge impacts in the EIR prepared for the Marin CWP contains sufficient analysis to minimize potential impacts to groundwater resources and should be used as a basis for analysis.

In response, significant studies on groundwater recharge have been conducted within Marin County and the Marin CWP indicates that only a portion of the County underlies important groundwater basins; therefore it would be appropriate to concentrate development outside of recharge areas, where feasible. In contrast, the majority of Solano County overlies important groundwater basins. Analyses similar to Marin County are not possible because the source of groundwater recharge within some aquifers is largely unknown and a quantification of groundwater recharge for specific groundwater basins has not been performed. In absence of detailed studies, it is assumed that any area with a pervious surface is a source of groundwater recharge in Solano County. Please refer Comment 60-46 for an additional discussion of groundwater recharge impacts. The many policies and programs in the 2008 General Plan update adequately minimize the potential impact to groundwater resources from a reduction of groundwater recharge because of increased impervious surfaces.

60-49 The commenter indicates that the Solano County 2008 Draft General Plan DEIR could have explored land use options (e.g., changes to land use designations or densities and intensities) with the intent of minimizing the Project's impacts on the County's groundwater resources in a manner similar to that taken in Marin County. The following policies address the commenter's concerns insofar as the policies contemplate minimum lot sizes to ensure adequate on-site wells, and on-site sewage disposal:

- ▶ Policy PF.P-18: The minimum lot size for properties to be served by individual on-site wells and individual on-site sewage disposal systems shall be 5 acres. Where cluster development

is proposed with on-site wells and sewage disposal systems, parcels may vary in size provided the overall density of the project is not greater than 5 acres per parcel and that no individual parcel is less than 1 acre in size.

- ▶ Policy PF.P-19: The minimum lot size for properties to be served by public water service with individual on-site sewage disposal systems shall be 2.5 acres. Where cluster development is proposed with public water service and on-site sewage disposal systems, parcels may vary in size provided the overall density of the project is not greater 2.5 acres per parcel and that no individual parcel is less than 1 acre in size.
- ▶ Program PF.I-6: Implement the recommendations from the English Hills Specific Plan Groundwater Investigation establishing minimum parcel sizes to ensure adequate groundwater supply and recharge for the English Hills area.

60-50 The commenter indicates that the DEIR does not determine whether the 2008 Draft General Plan would substantially deplete groundwater supplies. In response to the comment, please refer to please refer to Master Response R, “Insufficient Water Supply Assessment,” in Chapter 2 of the FEIR. .

60-51 The commenter indicates that the potential for significant impacts on groundwater conditions from implementation of the 2008 Draft General Plan is not evaluated in the DEIR. In response to the comment, please refer to please refer to Master Response R, “Insufficient Water Supply Assessment” in Chapter 2 of the FEIR.

60-52 The commenter states that the DEIR provides insufficient basis for concluding that policies, goals, programs, and regulations would effectively mitigate the 2008 Draft General Plan's significant impacts to water supply. In response to the comment, please refer to please refer to Master Response R, “Insufficient Water Supply Assessment,” in Chapter 2 of the FEIR.

60-53 Please refer to Master Response R, “Insufficient Water Supply Assessment,” in Chapter 2 of the FEIR. .

60-54 The commenter states that the DEIR concludes, absent evidence or analysis, that the 2008 Draft General Plan's cumulative hydrology and water quality impacts would be less than significant. In response to the comment, the cumulative discussion beginning on page 6-9 of the DEIR is revised as follows:

Land uses and development consistent with the under the 2008 Draft General Plan, together with the eight cities and neighboring counties’ general plans, would result in cumulative-impacts on hydrology and water resources. As discussed in Section 4.5, “Hydrology and Water Resources,” land uses and development consistent with the 2008 Draft General Plan would result in hydrology and water quality impacts related to drainage and flooding. The development proposed in the 2008 General Plan Update in combination with the eight cities and other county general plans could potentially result in constituent loading from increased urban runoff and wastewater discharges to surface or groundwater at greater frequencies or magnitudes compared to what would occur under the Solano County 2008 Draft General Plan alone. This could contribute to greater pollutant loads within already designated impaired waters within the unincorporated areas of the county, which include Lake Herman, Laurel Creek, LedgeWood Creek, Suisun Bay, Suisun Marsh wetlands, Suisun Slough, and lower Putah Creek. The incremental effect from the implementation of the 2008 General Plan to water quality is considered to be cumulatively considerable.

Solano County cities and neighboring counties are each responsible for their own storm drainage and flood control, although Solano County sometimes assists the cities in addressing upstream and downstream impacts. Like Solano County, the 8 cities and neighboring counties are required to address and mitigate hydrology and water quality impacts related to drainage and flooding caused by land use changes or future projects. The programs and policies in the 2008 Draft General Plan are also consistent with the Suisun Marsh Protection Plan, and San Francisco Bay and Central Valley RWQCB basin plan water quality objectives. To further address cumulative water quality impacts from flooding and drainage, Solano County is performing several watershed studies to evaluate problem areas from the standpoint of all lands that drain into a waterway and identify potential solutions to flooding and drainage problems. The cumulative impacts of drainage and flooding on hydrology and water quality would be addressed ~~both~~ with the adoption and implementation of the proposed goals, policies, and programs in the 2008 Draft General Plan and mitigation measures discussed in Section 4.5, “Hydrology and Water Resources,” combined with current land use, and existing stormwater, grading and erosion control regulations, ~~and~~ in concert with similar water quality protection programs of the cities and neighboring counties. Although the potential for these cumulative impacts would be greater under the Maximum Development Scenario than under the Preferred Plan because more development would be permitted, the proposed policies and programs in the 2008 Draft General Plan would be adopted and implemented under this scenario as well, and would be combined with current grading, erosion, and flood control regulations of the County and the 8 cities and counties. In addition, the following 2008 General Plan Programs and Policies Programs are designed to alleviate cumulative impacts to water quality.

- ▶ Policy RS.P-63: Identify, promote, and seek funding for the evaluation and remediation of water resource or water quality problems through a watershed management approach. Work with the regional water quality control board, watershed-focused groups, and stakeholders in the collection, evaluation and use of watershed-specific water resource information.
- ▶ Program RS.I-63: Seek funding opportunities for collaborative watershed planning approaches to water quantity and quality enhancement and protection, where such an approach is the desired method of accomplishing the program objectives.
- ▶ Program RS.I-67: Seek and secure funding sources for development of countywide water quality assessment, monitoring, remedial and corrective action, awareness/education programs. Provide technical assistance to minimize stormwater pollution, support RWQCB requirements, and manage related County programs. Consider future use of desalinization to supplement water supplies.

The Programs and policies within the 2008 General Plan and Mitigation Measure 4.5-5a(1) along with applicable County ordinance and regulatory requirements would reduce the 2008 General Plan Update contributions to impacts to water quality from drainage and flooding by requiring new development provide for water quality protection through design standards, best management practices, and project-specific mitigation that avoid increases in peak flow conditions, limit increases in impervious surfaces, regulate new point source discharges, and minimize impacts from new onsite wells and septic systems. Thus, implementation of these programs and policies would reduce the project’s contribution to cumulative water quality impact to less than considerable. Therefore, cumulative hydrology and water quality impacts related to drainage and flooding would be less than significant.

60-55

The commenter states that the DEIR neglects the cumulative water quality impacts resulting from development activity outside Solano County and indicates that since degraded runoff from the land uses in the County is added to degraded runoff from land uses outside the County, it is likely that substantial water quality degradation will occur. Please refer to response to comment 54.

60-56 The commenter states that the DEIR fails to identify mitigation for significant impact to an increased demand on groundwater and surface water supplies and adversely affects supplies of groundwater and surface water. Accordingly, it is asserted, the DEIR should be revised to include feasible mitigation measures for this impact. Please refer to FEIR, p. 4-175.

60-57-A The commenter notes that oversight and enforcement is critical to the long-term success of mitigation measures contained in the Draft EIR which require future preparation and implementation of mitigation and management plans. The required elements of such measures in the Draft EIR (4.6-1a, 4.62a, 4.62b, etc.) have required elements that address this future management and enforcement. The minimum requirements for the management plans that require identification of long term oversight and enforcement include two specific required elements:

- ▶ create a management endowment or other permanent funding mechanism that is acceptable to the long-term management entity and sufficient to manage the property in perpetuity, consistent with the approved management plan.
- ▶ specify maintenance requirements and responsibilities for implementation, long-term ownership and/or management responsibility, annual reporting requirements, and a funding mechanism.

The management plan conditions, which are referenced/referred back to in the other management plan measure requirements for other resources establish a fund for management and enforcement and the need to identify a responsible entity to assure that the required management occurs.

The commenter further states that approaches to mitigating significant loss of biological resources are available, such as reducing the development acreage or increasing the minimum lot size, but that these potential impact-reducing options are not explored or offered as mitigation measures in the DEIR:

In fact, sections 5.6, 5.7, and 5.8 of the DEIR analyzes three proposed alternatives: Alternative 2 (Improved Environmental Sustainability), Alternative 3 (Reduced Commercial and Industrial Development), and Alternative 4 (Reduced Rural Residential, each of which contains significantly less development acreage than the 2008 Draft General Plan.

Regarding an increase in minimum parcel size as a mitigation measure, the County used an extensive public involvement process to determine the appropriate balance of policy considerations, including minimum parcel size for agricultural and biological resource protection (see Chapter 1 of the 2008 Draft General Plan). Also, please see response to comment 26-84 in the FEIR.

The commenter also claims that the future need for habitat mitigation cannot be satisfied with the currently approved mitigation banks in the County. While this is correct, it should be noted that the DEIR assumed impacts under the General Plan address 20 years of projected growth in the County and suitable acreage is available for banks to establish as future needs arise. The following table compares the potential habitat impacts under the 2008 Draft General Plan and the remaining acres of that vegetation type remaining in the County.

Table 2.1				
Vegetation Types	Acres of Potential Impact	Existing Conservation Lands	Total Acres in County	Acres Remaining for Mitigation

Agriculture	5,697	5,884	187,783	176,202
Grassland - Upland	2,272	6,989	36,695	27,435
Grassland - Valley Floor	8,389	4,263	73,647	60,995
Grassland - Vernal Pool System	2,375	6,996	40,670	31,299
Marsh	1,706	24,296	72,392	46,390
Oak Savanna	995	250	9,205	7,959
Oak Woodland	1,766	4,677	27,804	21,361
Open Water	279	1,711	48,430	46,440
Riparian	354	246	3,602	3,002
Scrub/chaparral	97	1,814	11,265	9,354
Tidal Flats	10	2,093	4,111	2,008
Total	23,940	59,219	515,605	432,446

Based on these calculations of habitat remaining after the potential impacts under the 2008 Draft General Plan, minus already existing conservation lands, sufficient acreage is available in Solano County to more than meet mitigation requirements under the draft EIR.

Some of this future need is also being currently addressed. Currently there are several on-going proposed new banks or expansion of existing banks that would provide Swainson’s hawk, wetland, and vernal pool species habitat are in process for approval and several more banks are under consideration. The habitat mitigation measure standards as established under Mitigation Measure 4.6-1a also allows individual developers to establish applicable individual project mitigation sites on their own as long as they meet the basic management and assurance requirements. With respect to Swainson’s hawk, the Solano Land Trust also has an active farmland preservation program in the County and has participated in the establishment of at least two conservation easements approved by the Department of Fish and Game to mitigate impacts the loss of Swainson’s hawk foraging habitat to residential development (Beelard and Muzzy Ranch Conservation Easements). Also as an additional assurance that mitigation will occur, impacts may not proceed until the applicant provides the required mitigation.

60-57-B

The commenter is stating an opinion that the 1:1 mitigation required for loss of Swainson’s hawks and other associate species agricultural foraging habitat is inadequate. The basis of the 1:1 mitigation for preserving foraging habitat is the increased value of the habitat that is associated with the required management, planting of future nest trees, and the long term assurances that preserved lands will only be used to grow crops compatible with Swainson’s hawk foraging needs. One of the stipulations for complying with Mitigation Measure 4.6-1a is that each preserve established for Swainson’s hawk and burrowing owl contain a funding mechanism. This funding mechanism, such as an endowment, must be sufficient to fund the long-term maintenance, management, and monitoring requirements – guarantees that don’t currently exist for current Swainson’s hawk foraging habitat. The 1:1 mitigation and overall approach or the conservation and management requirements under Mitigation Measure 4.6-1a meet or exceed the requirements for these habitats and associated species contained in other approved large scale conservation plans approved in this region or current state guidelines. For example, current California Department of Fish and Game Statewide Guidelines for Swainson’s hawk require 1:1 preservation and management of suitable agricultural habitats within in 1 mile of a nest and 0.5:1 out to 10 miles from the nest. The Natomas Basin Habitat Conservation Plan (HCP) requires 0.5:1 mitigation and the San Joaquin County HCP require 1:1 mitigation. Please also refer to Master Response J, “Biological Resources Mitigation Strategies,” in Chapter 2 of the FEIR for additional discussion.

The commenter provides additional detail on one of the issues that form the basis for the claim that Mitigation Measure 4.6-1a is inadequate. The commenter claims that higher ratios are necessary to offset the “temporal” loss of habitat value – the lost habitat value necessary for the mitigation habitats to develop the same values as the impacted sites. Measure 4.6-1a requires that the “preserved [habitat] is of equal or better quality” than the impacted area. Thus, there is no temporal loss of value as the required mitigation site must already be of equal value. While it can take a number of years for planted nest trees to mature and that there may be some time lag between planting and providing suitable nesting habitat, the availability of nest trees, at least under current conditions, does not appear to be limiting the nesting population of Swainson’s hawks in Solano County¹.

60-57-C Please refer to Response to Comment 57-B above.

60-57-D This comment addresses additional rationale for the commenter’s contention regarding the adequacy of the 1:1 mitigation and reasons that managed habitats that managed habitats can fail to meet objectives. Similar to the response to comment 57-A, Mitigation Measure 4.6-1a anticipates these issues and has specific requirement to address unexpected failures and other referenced problems such as invasive species. Specifically, Measure 4.6-1a requires that the resource management plans include the following:

- ▶ specify control measures and programs for invasive exotic and noxious weeds, to be implemented in perpetuity and include annual surveys to visually assess and identify weed infestations and identify annual control measures;
- ▶ specify control measures for invasive and destructive nonnative animal species, to be implemented in perpetuity and include annual surveys to visually assess and identify new infestations and appropriate control measures; and
- ▶ create a management endowment or other permanent funding mechanism that is acceptable to the long-term management entity and sufficient to manage the property in perpetuity, consistent with the approved management plan.

Please also refer to Master Response J, “Biological Resources Mitigation Strategies.”

60-57-E The commenter states that the preserved foraging habitat mitigation required under Mitigation Measure 4.6-1a should be on lands that would otherwise be subject to development under the assumption foraging habitat in other areas is protected. The County disagrees that is condition is necessary. While agricultural lands outside of potential “development” areas may not be subject to direct development pressure in the near term, the current zoning does not guarantee that the lands will be protected forever nor managed appropriately for Swainson’s hawk and other species. Mitigation measure 4.6-1 provides the guarantees that preserved lands be preserved and appropriately managed in perpetuity to maximize habitat values.

The commenter also claims that the future need for Swainson’s hawk foraging habitat mitigation cannot be satisfied with the currently approved mitigation bank acreage for Swainson’s hawk in the County. Please refer to Response to Comment 23-116 , which shows acreages of unprotected habitat within the unincorporated county for mitigation purposes. Further, several new or expansion of existing banks that would provide Swainson’s hawk foraging habitat are in process for approval. Mitigation Measure 4.6-1a also allows individual developers to establish applicable individual project mitigation sites on their own as long as they meet the basic requirement. The

¹ LSA Associates 2004. Swainson’s hawk population and habitat use assessment. Solano HCP/NCCP. Prepared for Solano County Water Agency.

Solano Land Trust has an active farmland preservation program in the County and has participated in the establishment of at least two conservation easements approved by the Department of Fish and Game to mitigate impacts the loss of Swainson's hawk foraging habitat to residential development (Beelard and Muzzy Ranch Conservation Easements). Also, the development may not proceed until the applicant provides the required mitigation.

With respect to the comments regarding mitigation ratios for impacts to wetlands and vernal pool grassland, please refer to response to comment 5-26. Under the criteria prescribed in Mitigation Measure 4.6-3a. It is anticipated that mitigation ratios developed under the recommended standards would range between 1:1 to 18:1 (mitigation to impact ratio) depending on the habitat conditions, values, location, and specific species impacted at a site.

Please refer to Response to Comment 57-A with respect to accountability and enforcement issues.

Finally, the commenter states that alternatives to simply requiring the preparation of mitigation and monitoring plans or acquiring or managing habitat in a non-existent habitat preserve should be specified in the EIR, as discussed above (a reference to comment 57-A in which the commenter suggests that a reduction in developed land and/or larger minimum parcel sizes should be analyzed in the DEIR as potential mitigations). Please see response to comment 57-A above.

60-57-F This comment raises many of the same issues related the development and implantation of future mitigation and monitoring plans as were raised in Comments 57-A to E with respect to Mitigation Measure 4.6-2a for impacts to upland grassland, oak woodlands, oak savanna, and scrub/chaparral habitats. Mitigation Measure 4.6-2a requires the same basic assurances for enforcement, funding, and other guarantees as required under Measure 4.6-1a. Please see responses to comment 57-A to 57-E.

With respect to increasing lot sizes as suggested for mitigation, significant impacts to bird populations have been documented to occur in parcels up to approximately 40 acres as discussed in the Draft EIR (see pages 4.6-37 and -38). Increasing the size of lots as suggested by the commenter, if applied to rural residential development would increase or expand the acreage of impacted habitats and species if the same levels of projected need for population/rural residential development are maintained (at 5 acre parcel minimums, a 100 rural residences would occupy 500 acres; at 10 acres the effects for 100 residences doubles to 1,000 acres; etc.). There is no guarantee that owners of larger rural residential lots would preserve upland grassland, oak woodland, oak savanna, and scrub/chaparral habitats on the undeveloped portions of their properties. In fact, allowing smaller lot sizes through clustering of rural residences as proposed in polices LU.P-17 and SS.P-5 and implementation measures LU.I-3 and SS.I-1 could have a greater benefit for the preservation of habitat lands by maintaining larger blocks of undeveloped lands.

Please also refer to Master Response J, "Biological Resources Mitigation Strategies."

60-57-G The mentioned measures also require the same assurances for accountability and enforcement issues (Please refer to Response to Comment 57-A for additional information).

60-57-H Mitigation Measure 4.6-3a and 3b has been revised to read as follows:

(3) Habitat Mitigation. Compensatory mitigation for the conversion and loss of vernal pool and valley floor grassland habitats shall be provide for no net loss of wetland acreage and overall habitat value ~~at a 1:1 ratio~~ through a combination of preservation of

high-quality vernal pool and grassland habitat and the construction and restoration of vernal pool habitat.

It is anticipated that mitigation ratios developed under the recommended standards would range between 1:1 to 18:1 (mitigation to impact ratio) depending on the habitat conditions, values, location, and specific species impacted at a site. The Solano HCP, once adopted, will likely provide the main guidance for mitigation requirements whether or not the County decides to participate in the program.

It should also be noted that much of the anticipated impacts to these communities occurs outside of the high conservation value vernal pool grassland habitats and that many of the wetlands that are likely to be impacted are not in pristine conditions nor do they likely support significant native bunch grasses. Most of the potential impact areas have been subject to a long history of various levels of cultivation and are often dominated by introduced plant and animal species. The majority of the high quality vernal pools and associated grasslands in the County are included in the Resource Conservation Overlay.

Please also refer to Master Response J, “Biological Resources Mitigation Strategies.”

60-57-I The EIR authors recognize and agree that created and restored vernal pools do not fully replace the ecosystem of natural pools. As such, the DEIR and Draft General Plan policies follow the USFWS’s objectives for vernal pool species conservation by focusing mitigation on habitat preservation and management, with a minor level of habitat restoration incorporated to address specific issues.

Re-establishment of several vernal pool special-status plant and animal species has been demonstrated to be practicable. Collinge (2003) and others², have demonstrated relatively easy establishment and expansion of populations of Contra Costa goldfields (*Lasthenia conjugens*), a federally endangered species with a very restricted range of occurrence in the County, in constructed vernal pools at Travis Air Force Base. Self-reproducing populations of vernal pool tadpole shrimp and other fairy shrimp as well as several other special status plant species have established in many of the restored/constructed vernal pool habitats at the Gridley Mitigation Bank in the County³. These and other studies have demonstrated the ability to restore many of the species associated with vernal pools.

60-57-J Mitigation measure 4.6-3a requires the County to adopt specific standards for restoration and management plans as well as provide the basic funding and management guarantees discussed in response to comment 57-A. Given the likely reliance on use of mitigation banks as alluded to in previous comments (e.g. 57-E), these federally approved mitigation banks are required to have

² Collinge, S. K. 2003. Constructed vernal pool seeding experiment aids in recovery of Contra Costa goldfields. *Ecological Restoration* 21:316-317.

Collinge, S. K., C. A. Wise and B. Weaver. 2003. Germination, early growth, and flowering of a vernal pool annual in response to soil moisture and salinity. *Madroño* 50:83-93.

Ramp, J. 2004. Restoration genetics and pollination of the rare vernal pool endemic *Lasthenia conjugens* (Asteraceae). Masters Thesis, Department of Ecology and Evolutionary Biology, University of Colorado, Boulder, CO.

³ LSA Associates, Inc. 2008. Gridley Mitigation Bank Annual Report. Submitted to the Sacramento District, US Army Corps of Engineers. Prepared fro Wetland Resources, LLC, Sausalito Ca

contingency and adaptive management plans, and associated guaranteed funding, to address potential failures. These approved banks must meet specific, rigid performance criteria before credits may be sold.

- 60-57-K Please see responses to comments 57-a through J which address the adequacy/feasibility of the required mitigation. Please also refer to Response to Comment 23-115 through 23-117. We also note that the resource agencies commenting on the General Plan and DEIR (Letters FWS and CDFG) do not question the adequacy of these mitigation measures or provide minor recommendations for changes which have been adopted.
- 60-57-L Please see response to comments 57-A and 57-E.
- 60-57-M Avoidance is included as a primary first consideration in the various GP plan and policies and specific DEIR habitat mitigation measures (4.6-2a and b, 4.6-3a and b, 4.6a and b, 4.6-5a and b, 4.6-6a and b) require replacement mitigation for unavoidable losses or impacts to habitats. The Draft EIR and 2008 Draft General Plan do not make a blanket assumption of impact, followed by compensatory mitigation.
- 60-59 The commenter asserts that the DEIR for the 2008 Draft General Plan does not evaluate blight impacts potentially caused by the General Plan's low density development pattern, that it is reasonably foreseeable that such development may lead to blight due to future social and economic changes, and that this blight impact should be evaluated in the EIR.
- The commenter does not specify which proposed General Plan land use designations may lead to blight. In the case of additional rural residential development in the unincorporated area, the County considered the amount of acreage that it may need to designate for such development in light of state law requirements to accommodate the County's share housing for all income levels and provide adequate sites for housing (California Government Code, section 65589 – 65589.5). Please see section 2.3, Master Response C in the Final EIR for the 2008 Draft General Plan ("Rationale for Rural Residential Land Use Designation"). Furthermore, issues of balancing the amount of additional land designated for development have been considered by the County throughout the general plan update process. In developing the 2008 Draft General Plan, the County balanced various objectives, including the need to provide for new residential, industrial, and agricultural-supporting land uses that are not provided for under the cities' general plans. Notably, the commenter's previous comments indicated that the commenter would prefer even less development than that proposed by the 2008 Draft General Plan in order to reduce the Project's environmental effects (see e.g., Comment 26-13.)
- 60-60 The commenter states that "case law already has established that in appropriate circumstances CEQA requires urban decay or deterioration to be considered as an indirect environmental effect of a proposed project." . CEQA is only concerned with a project's economic effects when such effects may lead to foreseeable adverse physical changes to the environment. (CEQA Guidelines, § 15131, subd. (a) ["[e]conomic or social effects of a project shall not be treated as significant effects on the environment"]; see also Pub. Resources Code, § 21082.2, subd. (c); CEQA Guidelines, § 15382.) The commenter cites two California appellate court cases to support this point: 1) Bakersfield Citizens for Local Control v. City of Bakersfield, 1241 Cal. App. 4th 1184, 1205 (2004); and 2) Anderson First Coalition v. City of Anderson, 130 Cal. App. 4th 1173, 1182 (2005).
- The two court cases cited by the commenter considered specific "big box" retail development proposals (73 acres of land in the Bakersfield case and 26.5 acres of land in the Anderson case) and their potential to cause indirect environmental impacts (i.e., blight resulting from urban decay) on nearby commercial developments. The projects that were the subject of these court

cases are not comparable to the 2008 Draft General Plan, which proposes general plan land use designations throughout a large unincorporated county area, not specific development projects.

The commenter is reminded that the EIR prepared for the draft 2008 General Plan is a program-level document that was not intended to single out and provide environmental analysis of specific projects anticipated under the general plan. Rather, the EIR is intended to provide an analysis of the broad environmental effects of the program (i.e., General Plan) as a whole. As individual projects or specific plans are developed consistent with the General Plan, it is anticipated that additional environmental analysis will be required that would address project-specific effects, including urban decay (if appropriate).

The kind of very detailed urban decay analysis that might be appropriate for an EIR for an individual development project is simply not appropriate for a general plan EIR with a time horizon of more than 20 years. When development proposals are submitted, the County will, at that time, conduct site-specific environmental review and consider any relevant information regarding potential indirect environmental effects that might result from the social and economic impacts associated with development projects. Further, the economic policies and programs contained in the 2008 Draft General Plan are designed to encourage economic development within the County, which will further ensure that the conditions leading to blight do not occur. There is no indication that implementation of the 2008 Draft General Plan will force any businesses or houses to close or become abandoned for long periods of time leaving long-term vacancies that might deteriorate, encourage graffiti, or other unsightly conditions associated with urban decay. Rather, the 2008 Draft General Plan is expected to create an economic benefit to the County, indicating that the physical consequences of implementing 2008 Draft General Plan would be very unlikely to include urban decay.)

60-61 The commenter asserts that many suburban communities in California and beyond are experiencing a waive of blight caused, in part, by foreclosures due to mortgage defaults. The commenter also refers to an article in the March 2008 edition of *Atlantic Monthly* (Exhibit 10 attached to the commenter's letter) in which the author argues that an oversupply of low density development in concert with a shift in demand to high-density housing in urban areas may lead to an oversupply of such housing and suburban decay. The analysis and conclusions contained in the article speak to low-density *suburban communities*, such as those typically found in several of Solano County's cities, and suburban cities far from job centers. The residential context that was the subject of the article is very different than the residential context in unincorporated Solano County. The vast majority of land designated for residential use in the unincorporated area under the draft General Plan is rural residential land at densities of one unit per 2.5 to 10 acres (with the possibility of 1-acre clustered lots). The General Plan does not propose to designate residential lands at densities comparable to those found in Solano County's cities. The demand for rural residential housing and the lifestyle associated with that housing is not comparable to the demand for housing typically found in the cities and the lifestyle typically associated with such housing.

60-62 The commenter cites information from various sources contained in Exhibits 12 through 14 attached to the comment letter that sales of homes on larger lots in the Sacramento urban area are declining, sales of homes on smaller lots in compact development near jobs is rising, and rising energy costs will reduce the demand for lower density residential development. The land use designations of the 2008 Draft General Plan take into account current market conditions and realistic growth assumptions that are consistent with the community's vision for Solano County. There is, however, no requirement that lands designated rural residential must be developed. The County's action of designating certain areas of the County as appropriate for certain types of land uses will not force any private landowners or developers to propose and develop specific projects in the future. If future market conditions indicate that development of new rural residences would

be unmarketable or cost prohibitive due to increased energy and gas prices, then such housing is unlikely to be built, even if such uses are permitted by the 2008 Draft General Plan. In short, there is no indication that the 2008 Draft General Plan's land use designations will result in urban decay.

The commenter reiterates a statement contained in its first comment letter on the DEIR (included in Volume II of the Final EIR as letter 26) that implementation of the 2008 Draft General Plan could produce demand for 13,236,561 gallons of gasoline per year under the Preferred Plan or 13,808,380 gallons per year under the Maximum Development Scenario. The commenter estimates that the increase gasoline cost due to the implementation of the General Plan, based on average prices as of June 2, 2008, would be over \$7,000 per household per year. Please refer to Responses to Comments 60-61 and 62. Further, if housing becomes undesirable, there is no requirement that lands designated under the 2008 Draft General Plan for rural residential development actually be developed. Private landowners and developers' decisions whether or not to try to develop rural residential housing within the rural residential designated-areas of the County will depend on various market factors, including costs of living, such as gasoline prices.

60-63 Please refer to Response to Comment 60-62 above.

60-64 The commenter states that proposed state climate change regulations will increase the price of gasoline and other forms of energy, thereby reducing consumption of these energy sources. The commenter refers to Exhibit 15 attached to its comment letter, which contains the California Air Resource's Board (CARB) Climate Change Draft Scoping Plan (June 2008 Discussion Draft). The commenter notes that CARB has recommended a broad-based cap and trade program to reduce emissions of greenhouse gases under AB 32, the California Global Warming Solutions Act. The commenter further refers to Exhibit 16 attached to its comment letter, Congressional Budget Office, Options for Offsetting the Economic Impact on Low and Moderate-Income Households of a Cap-and- Trade Program for Carbon Dioxide Emissions (June 17, 2008). Please refer to Responses to Comments 60-60 through 60-62.

60-65 The commenter surmises that significantly increasing gasoline and other energy costs are reasonably likely to further depress demand for housing in decentralized communities like those planned for under the 2008 Draft General Plan. The commenter further speculates that additional downward pressure on demand will further exacerbate the potential declining value of homes in low density communities. The commenter cites the article contained in Exhibit 11 to bolster this claim. See Responses to Comments 60-60 through 60-62.

60-66 The commenter concludes its arguments about the likelihood of the draft General Plan leading to blight, which it states must be addressed in the DEIR, by noting that the County runs the risk of generating a development pattern that will very quickly become unaffordable and threatens to make parts of the County unlivable. According to the commenter, this has obviously dire consequences for new development, but also threatens to seriously impact the property values and quality of life of existing residents. Please refer to Responses to Comments 60-60 through 60-62.

60-67 The commenter states the DEIR has the obligation to include mitigation that reduces impacts on scenic views, even if the mitigation does not eliminate the impact. The DEIR identifies policies of the 2008 Draft General Plan that would "reduce the severity" of the significant impact (see discussion under Impact 4.11-1a). The DEIR analyzes visual impacts at a program level (see Section 1.1, "Introduction") whereas subsequent, individual development projects (e.g., rural residences, industrial, neighborhood commercial) would require their potential visual impacts be analyzed at a project-level. Implementation and recommendation of specific design elements (i.e., mitigation measures) would be more effective at the project-level. The DEIR prepared for the 2008 Draft General Plan is not required to define specific mitigation measures (i.e., design

elements) that could reduce visual impacts associated with individual development projects because these mitigation measures would be defined as part of subsequent environmental review required under CEQA. Please refer to Master Response E, “Programmatic Nature of EIR.” The DEIR adequately concludes implementation of policies in the 2008 Draft General Plan would reduce visual impacts at a program-level.

60-68

The commenter states the DEIR does not analyze impacts to scenic views by urban development located on hillsides or ridgelines. First, the DEIR identifies “ridgelines” as an important visual resource in Solano County as identified in the following paragraph (see Section 4.11-1, “Aesthetic Resources,” seventh paragraph).

The Coast Range is the most prominent background visual resource throughout Solano County because of its unique geography. The topography in the eastern half of the county is primarily flat, which allows the Coast Range to stand out visually in the background of most views. Oak woodlands and grasslands stretch over the hillsides and are primarily undeveloped. In particular, the majority of ridgelines created by the Coast Range are currently in their natural form. Residents in Solano County identified ridgelines as a prominent and important visual resource that should be protected.

Second, the DEIR identifies Policy RS.P-42 of the 2008 Draft General Plan that requires protecting “the unique scenic features of Solano County, particularly hills, ridgelines, wetlands, and water bodies” (see discussion under Impacts 4.11-1a, 4.11-2a, and 4.11-3a).

Third, the impact statement provided in the DEIR states “views of the Coast Range could be partially or totally blocked by future urban land uses in Solano County” and “the 2008 Draft General Plan identifies areas that would be converted from existing open spaces to urban land uses. Because the 2008 Draft General Plan under the Preferred Plan envisions development of urban land uses that could partially or wholly block views of the Coast Range (a countywide scenic vista), ...” (see impact statement for Impact 4.11-1a). The DEIR uses the term “blocked” to refer to any urban development not dependent on location. As an example, development of rural residences on a hillside overlooking the City of Fairfield and construction of a cellular tower on a ridgeline above the City of Vallejo would “block” views of that hillside or ridgeline at that specific location. Therefore, the DEIR adequately analyzes visual impacts of development occurring on hillsides and ridgelines.

It is unclear what the commenter is referring to by “the statement of the regulatory baseline does not identify whether the County implements a ridgeline and hillside development ordinance to protect views.” Solano County does not currently have an ordinance protecting views of ridgelines or hillsides. No response can be provided.

The commenter states the DEIR does not show where new development is proposed as part of the 2008 Draft General Plan relative to existing development. The DEIR has been revised to include an exhibit showing existing land uses and is included as a revised Exhibit 4.1-1 of the EIR (see Chapter 4, “Revisions to the EIR”). Comparison of proposed land uses (see Exhibit 3-2, “Project Description”) and Exhibit 4.1-1 (see Chapter 4, “Revisions to the EIR”) would allow decision makers to determine if land uses identified in the 2008 Draft General Plan are located on hillsides or ridgelines.

LETTER 61

BILL MAYBEN

July 18, 2008

Louie, James A.

From: Bill Mayben [bmayben@comcast.net]
Sent: Friday, July 18, 2008 1:17 AM
To: Louie, James A.
Subject: GPU comments

James A Louie
Solano County Department of Resource Management
675 Texas Street
Fairfield, CA 94533
BY e-mail: jalouie@solanocounty.com

July 18, 2008

Dear Mr. Louie;

The following represent my comments regarding the draft General Plan Update, and the associated EIR.

General Plan draft EIR comments
Executive Summary of the EIR

Section 2.3 The EIR reiterates the goals of the General Plan to “maintain the current development strategy of city centered growth”, and to “retain the overall function of the Orderly Growth Initiative”, to “preserve agricultural viability”, and “sustain and enhance the natural environment”.

At the same time it proposes to “Encourage economic development within the unincorporated county”

61-1

It is clearly impossible to do all of these things at once, and by holding out that these are the goals of the plan, these statements immediately establish an atmosphere of unreality regarding the plan; the announcement of a lack of integrated thought. What specific measures insure that the General Plan maintains the “overall function of the Orderly Growth Initiative, when these measures are only preserved for the first two out of twenty years of the Plan period? How does the General Plan intend to preserve this function for the eighteen years without these protections? What specific measures in the draft General Plan give the citizens decision-making authority over land use changes for the life of the plan, when in fact all that will be required to change a rural land use designation after the expiration of the Orderly Growth Initiative in 2010, is the vote of three supervisors?

61-2

The Orderly Growth Initiative was intended to preserve the agricultural viability of Solano County, as well as preserve the natural environment. The draft General Plan also states these goals; however it also proposes to encourage development in these same areas. What measures are in place to insure that the General Plan does not accelerate the conversion of agricultural land beyond the “preferred plan”? What policies deal with the unmitigatable effects of the “Maximum Development Scenario”? If the policies of the draft General Plan allow for the Maximum Development Scenario, isn’t this the plan which should be the subject of the EIR? Apparently, the effects of the Maximum Development Scenario cannot be mitigated. Should this fact be incorporated into the policies of the draft General Plan, to develop a plan wherein the Maximum Development Scenario becomes the Preferred Plan, and can therefore be mitigated and managed? Is the EIR admitting that the policies of the draft General Plan cannot be managed?

61-3

<p>If, under section 2.3 in the EIR, it is the intent of the County to “ensure sufficient residential, commercial and industrial development within areas served by cities to support a vibrant economy and provide affordable housing options”, with the emphasis on sufficient, then there is absolutely no need, by definition, to “encourage economic development within the unincorporated county.” What is the basis for establishing the need for economic development in Solano County beyond what is sufficient?</p>	<p>61-4</p>
<p>What specific findings does the plan put forth to justify the conversion of 57 square miles of agricultural land during the plan duration; and over 10 square miles of habitat, grasslands, and woodlands? If development in the cities will be sufficient, what is the specific description of the additional land to be developed, within a General Plan which claims sustainability as the overarching principle? Is the development of 57 square miles of agricultural land sustainable, by definition, under the plan? How does the EIR address the issue of sustainability in the measures outlined in the rural development portion of the plan?</p>	<p>61-5</p>
<p>On this specific issue, is the draft General Plan is attempting to do two incompatible tasks at once; both insure that the cities provide the growth to meet all of our needs, while the County generates rural development in excess of our needs? Does this strategy do precisely what Orderly Growth and city-centered growth have been established to avoid, the useless squandering of our natural resources for the economic gain of a few people, at the expense of the present and future citizens of Solano County? How does the EIR address this inequity? How does the draft General Plan intend to “insure sufficient” development capabilities within sovereign municipalities out of direct County control?</p>	<p>61-6</p>
<p>2.4.1 What specific elements in the draft General Plan “provide and insure sustainability” in: A). Environment B). Economy C). Social Equity</p>	<p>61-7</p>
<p>The EIR fails to reconcile ABAG projections in Table 4.1-8 of 26,000 people for the year 2030, with the General Plan build out potential of 59,443. With a present population of 19,988, the plan would be responsible for creating a 300% increase in our rural county population in 20 years, a growth rate of 11% per year. Is this sustainable? What policies and measures are in place in the draft General Plan to accommodate an ongoing population growth of 11% per year? For example, each year our treated sewage capacity would have to grow by 11%; our water supply would have to grow by 11%; our electrical and natural gas supplies would have to increase by 11%; the carrying capacity of our roadways would have to accommodate 11% more households; all municipal services would need to increase by 11%. How does the draft General Plan actually map out the process whereby this can be accomplished?</p>	<p>61-8</p>
<p></p>	<p>61-9</p>
<p>2.5.5 Environmentally Superior Alternative</p>	
<p>The EIR states that Alternative 2 is the Environmentally Superior Alternative, and goes on to state that “any of the alternatives described in this chapter could be designed to achieve the majority of the communities goals”. What over-riding considerations justify the unmitigatable damage and cumulative impacts caused by other alternatives?</p>	<p>61-10</p>
<p>In the Agricultural Chapter, Chapter 3, in Table AG-1, the Plan states that there are 360,562 acres of land in Agricultural production as of 2006. 4.1-4a and 4.1-4b cover mitigation to offset incompatibility with changes in land use. Mitigating the conversion of agricultural areas to other, non-agricultural uses at a ratio of 1.5 to 1, will result in the loss of 32,727 acres of land over the plan duration, and the preservation of 49,000 acres of farmland, leaving</p>	<p>61-11</p>

278,835 of farmlands free of development or mitigation at the end of the plan period. Following this rate, in 90 years there will be no additional farmland available for conversion. Solano County will have lost 150,000 acres of agricultural land, or 431 square miles, to other uses, retaining only 213,291 acres of mitigated farmland. Does this fact meet the criteria of sustainability? 431 square miles is the equivalent of developed area over eleven times more than the current area of Fairfield. Is this sustainable? How does the draft General Plan account for initiating growth impacts of this magnitude? How does the Draft General Plan account for the increase in the rate of development pressures caused by the level of development contained in the plan measures? In other words, after the 2008 General Plan has run its course, and has introduced a population increase of 300% into Solano County, how does the plan intend to account for the future development demands, water demands, food and economic requirements of that increased population base on subsequent plans for the county?

61-11
Cont'd.

In Table 2.1, in 4.1-5a, the EIR claims that the introduction of population growth into the unincorporated areas of Solano County will cause “significant and unavoidable” impacts. It goes on to claim that a decrease in the projected levels of residential development for unincorporated areas “could cause an increase in the cost of housing, conflicting with objective C.1 and Policy c.1, promoting the production of housing for all segments of the population and all income levels.

61-12

This argument is not factual. In Section 2.3, the EIR states that it is the goal of the plan to “ensure sufficient residential, commercial and industrial development within areas served by cities to support a vibrant economy and provide affordable housing options.” Therefore there is no need for the additional housing proposed for unincorporated areas of the County. Additionally, the infrastructure necessary to support development in unincorporated areas is so costly as to preclude affordability, and therefore cannot be construed to be able to meet the goals of Objective or Policy C.1 anyway. Secondly, if the cities are providing “sufficient” residential development to meet the county needs, housing initiatives in unincorporated areas can only be described as excess to that sufficiency, and therefore unnecessary. Any potential loss of affordability would be to families with considerable economic choices, and could hardly be determined to be a significant factor in affordability. The “significant and unavoidable” impacts to our agriculture and our environment are clearly more important than any minor increase in the cost of upscale housing. How does the EIR address the facts that the present housing recession has produced sufficient affordable housing for the next 15 years? How does it address the facts that there are over eight thousand houses for sale in rural Solano County at this moment, and the need for more is 15 years away? How does the EIR address the fact that the present housing crisis has removed the need for development in rural Solano County for the life of the plan, and that lots presently entitled within the cities is sufficient for housing over the next twenty years? What provisions does the General Plan make to support the present crisis in mortgage holders within the county, where three out of five mortgages taken from 2005 to 2007 are in default? What provisions does the General Plan make to recognize the level of empty, bank-owned foreclosed homes in the county, and the dislocation created in the families that occupied them?

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61-15

This recognized impact admits that the draft General Plan is inherently and uncontrollably growth-inducing in rural areas. In what way is this a plan?

4.4-1a, Table 2-1 Transportation and Circulation:

The EIR states that under the draft General Plan Maximum development scenario, traffic standards currently in place cannot be maintained. It also states that given the growth-inducing nature of the rural development criteria, that such growth cannot be modulated. Why shouldn't the draft General Plan be revised to reflect those policies which can be managed within the resources and infrastructure available? If the policies within the plan over-ride available resources such as roadways, water, air quality, habitat, farmland, energy, parks and recreational resources, and other critical resources, why does the EIR not recommend scaling the plan to the available resources? How does the draft General Plan intend to manage degradation in the quality of life inherent in its policies? How is a plan which contains these elements sustainable?

61-16

61-17

4.6-1a thru 4.6-12a

It should be noted that the protections and mitigations available for species preservation and mitigation in the EIR are more extensive than the protections afforded human beings. How does the draft General Plan intend to mitigate the effects of overdevelopment on existing residents? What protections are available to existing county residents to accommodate a 300% increase in rural population in the plan period? Is it sufficient to state, as the EIR has done in many areas, that the effects of a plan encouraging over-development cannot be mitigated? Why is our draft General Plan not scaled to the available resources in a fashion which is manageable? Isn't that the purpose of a General Plan?

61-18

Table 2.1, 4.6-2a

The EIR fails to provide for the specific direct mitigation of loss acreage of the identified habitats. It is noted that agricultural land is to be mitigated at a ratio of 1.5 to 1. It is also noted that valley floor and vernal pool habitats are mitigated at ratios of 1 to 1. Why are the habitats listed in this item not considered at least as important as farmland? The plan states it's objective to preserve the rural character of Solano County, yet here, in the most direct threat to that character, the plan fails to replace converted habitat with mitigation lands. How is this a preservation of rural character? Additionally, in what specific ways does the plan act to preserve rural character?

61-19

61-20

Table 2.1 fails to provide measures to avoid the spread of Sudden Oak Death Syndrome, which currently exists in Green Valley. It fails to map the areas in which Sudden Oak Death Syndrome is established, and does not project a county-wide plan for its containment.

61-21

4.7-1a and 4.7-1b also 4.9-7a and 4.9-7b The EIR fails to identify areas of potential seismic activity. Despite funding shortfalls of local volunteer fire departments and emergency medical response teams, the county is proposing a 300% increase in rural population over the plan period, in areas subject to both wildfire and seismic events. Who does the EIR identify as responsible for addressing this health and safety problem, threatening to life and property? Is it enough to state, basically, that this is not a county problem, when in fact the policies of the General Plan will exacerbate existing, unaddressed weaknesses in response capability?

61-22

4.9-1a and 4.9-1b:

Insufficient water supplies to meet future demand in unincorporated areas. The mitigation measures offered for this issue merely repeat portions of existing state law for 500 units or more. What specific measures for new rural residential developments will insure that sufficient water is available at all times of the year, for all aspects and uses of the new development in perpetuity, without interfering with existing water uses and patterns of surrounding properties? The mitigation measure relates to "small lot subdivision map" properties, and fails to address rural residential developments on larger acreages. What measures need to be applied to the types of projects likely to be actually developed in rural areas, to insure that they fall under the same criteria applied to the small lot subdivisions?

61-23

4.9-2a and 4.9-2b: New or Expanded water supply facilities:

Is the draft General Plan sustainable is it cannot provide enough water for the development it proposes? Is a plan which leads to total resource depletion even viable? What calculations have been carried out to project the effects of periodic droughts on the development levels proposed in the draft General Plan? What alternative sources are contemplated to make up the additional water necessary to support added population in a drought? At what level of population, does the existing water supply, accounting for the effects of a drought, cease to be adequate?

61-24

4.9-4a and 4.9-4b

What studies have been undertaken to ascertain the cumulative, concentrated and prolonged effects on groundwater and aquifer water sources, from multiple surface dispersal systems used by package treatment facilities, especially salts, nitrates and pharmaceuticals? How can the draft General Plan advocate the widespread rural use of these systems without effective projections of their cumulative effects on the groundwater? What measures are in place within the General Plan to insure safety of the groundwater and aquifer supplies, and what alternatives are proposed for these systems if it is proven that they contaminate ground water resources over time? How can the taxpayers be assured that they will not ultimately be responsible for providing sewer and water services to these rural developments in perpetuity? If the General Plan advocates certain systems, does it automatically mean it is a good idea, or it is good science? What assurances does the public have regarding the science and engineering behind these ideas, when the proposed engineering is site specific and does not deal with the health of an aquifer, or ground water resources for a region? How can we prevent the type of contamination which occurred with underground gas storage tanks, which began leaking and eventually developed toxic plumes of gasoline seeping into groundwater? Initially those seemed like a solution, and a good idea, also.

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The RDEIR for Rockville Trails Estates, a proposed 370 unit project on Rockville Road which proposes the use of a package sewer treatment facility, notes that the system serving 370 houses will generate two cubic yards of hazardous solid waste per day, which will need to be extracted on site and transported over county roads to an approved landfill. Following this ratio, and accepting it at face value for the time being, the build out of the policies of the draft General Plan update in 2030 will conservatively generate 400 cubic yards of hazardous human waste products every single day from package sewer treatment facilities in the county. What provisions has the county made to provide land fill for this quantity of toxic, hazardous landfill? This amounts to 146,000 cubic yards of human waste per year, every year. The State of California Regional Water Quality Control Board research shows that out of the thousands of package sewer treatment facilities in service in the state, only two of them are operating within their design perimeters, the rest of which are in some form of violation at any one time. Placing the County of Solano squarely in the middle of this situation without further investigation and information is reckless and irresponsible.

61-28

4.9-9a and 4.9-9b

Is it true that no feasible mitigation is available, or that the EIR has not taken the time to lay out proper mitigation for this vital community service? Should the development plan be scaled back to the point where community facilities such as libraries can be managed within the plan, rather than simply abandon them? Do we have a commitment to the future under the draft General Plan? What aspect of the plan claim that it will “provide and insure sustainability in Social Equity”, fails to apply to providing libraries for the population increase it advocates?

61-29

4.11 a and 4.11 b The EIR claims it can offer no feasible mitigation to the loss of Scenic Vistas. Is the author of the EIR saying that absolutely nothing can be done to preserve scenic vistas, or that he has no intention of offering any suggestion? What effect would an ordinance preventing ridge top development have on protecting scenic vistas? What effect would natural materials and paint colors have in preserving scenic vistas? What effect would building envelopes have in preserving scenic vistas? What effect would natural landscaping materials have in the preservation of scenic vistas? What effect would clustered development have in preserving scenic vistas? What effect would open space and wildlife corridors have in preserving scenic vistas?

61-30

Table 2-1 Cumulative Impacts

61-31

What specific measures can be incorporated in the draft General Plan to reduce the cumulative impacts to current levels? What advantages accrue to the residents of Solano County to offset, to justify the losses associated with the stated cumulative impacts? How is the draft General Plan so beneficial to county residents that they would be willing to accept the list of cumulative impacts in exchange for these advantages?

61-31
Cont'd.

Staff Updates:

Staff has pointed out that it will require 280 programs not presently in place, in order to properly manage and direct new policies and goals embedded in the General Plan. Without these 280 programs, Solano County will not only have rampant growth, but we will have uncontrolled rampant growth. This is a recipe for disaster. The absolute fact is that the County does not have a good record of designing, funding, staffing, and implementing new programs in a timely fashion. The Parks and Open Space Program, initiated almost five years ago, has accomplished virtually nothing. We are in need of 280 programs, many of which have more functional and immediate responsibilities than the Parks and Open Space Program. Why should the citizens allow the County to develop unincorporated rural lands, when it has not shown the capability to manage such a process?

61-32

AGRICULTURAL RESOURCES, SECTION 4.8

4.8.1 Existing Conditions

At the end of the second paragraph, the EIR has described the” distinct agricultural regions” of Solano County. Green Valley is described as a “separate region because of agricultural characteristics of the valley and 2008 Draft General Plan policies recommending a specific plan for Middle Green Valley.” In fact, Middle Green Valley has been separated out based on a residential development plan proposed by the landowners, on prime agricultural soils, and not because of any special Agricultural characteristics of Green Valley. Is it a misstatement to include this residential development plan along with agricultural designations? Houses, not crops are being studied for Middle Green Valley, and agricultural land conversation, not conservation. How is it possible for the reader of the Plan or the EIR to determine the nature of the 12 separate agricultural regions without being able to review those plans? How can the reader determine the effects of these plans on the overall agricultural element when they have not been written? Is it possible that the failure to include these vital aspects of the Agricultural Resources section until after Plan approval could be construed a “segmentation” of the plan, removing consideration of these elements from public review?

61-33

Impact 4.8-1a and 4.8-1b, Loss of Important Farmland

Where is there provided a clear analysis of the total land required to provide services to rural development, beyond the actual land dedicated to housing, commercial, and industrial uses? Within a city, such uses are proved by the context; in rural unincorporated lands, all services must be built in addition to the direct development. What provisions are made within the plan for services such as, but not limited to; sewer treatment, water treatment and distribution, drainage facilities, streets, roadways and associated improvements, including freeway improvements, electrical and gas substations and improvements, cable TV and phone system facilities, including cellular phone facilities, fire department and emergency medical facilities, and schools, including primary, secondary, high school, and junior college facilities.

61-34

Secondly, what measures are in place to prevent the “preferred plan” from accelerating to the

61-35

“maximum development scenario?” Are the policies are in place or are they are not? What policies or procedural limitations are in the plan which would prevent the “Maximum Development Scenario?” As these policies are not differentiated in the plan, is the EIR obligated to evaluate the maximum development scenario as the plan proper? 61-35 Cont'd.

Table 4.8-1

The EIR fails to provide the reader with a comparison table, projecting the 2008 General Plan maximum build out with the existing plan period shown. A simple computation regarding the projected Agricultural lands at risk under the 2008 plan, indicate a projected 50% increase in the rate of conversion of farmland over the existing General Plan. Is this a significant, and unnecessary, impact? 61-36

4.8.4

The EIR fails to discuss the impacts of agricultural land conversion to development on adjoining agricultural land. Agricultural lands at the margins of every parcel of rural development land would come under risk for development, and would become more difficult to farm. The impact of 32,727 acres of direct agricultural land losses to development could easily threaten that much more agricultural land. The same will hold true of adjacent habitat, open land, marshland etc.? Is a 300% growth in rural residential population manageable under the resources and context of the draft General Plan? Where is the discussion regarding the impacts of this level of population increase on the agricultural element? How does the plan simultaneously expand rural development 300% and preserve agriculture? If the policies in the draft General Plan create significant and unavoidable impacts resulting in net losses of Important Farmland, should those policies be revisited? 61-37
61-38
61-39

Impact 4.8-2a:

Aren't General Plan programs and policies which run contrary to the Williamson Act, in direct conflict and violation of the project objectives to “Protect and support agriculture as an important component of the county’s economy and quality of life”? 61-40

Program AG.I-17: Solano County does not participate in the Super Williamson Act, the Farmland Security Zone program.

Conclusion of EIR evaluation of Agricultural Resources page 4.8-9

Where in the draft General Plan, are the residential development standards for unincorporated rural residential development limited to low and very low income housing? Despite Policy AG.P-33, how does the General Plan limit residential development in unincorporated Solano County to these uses? Why does the 61-41

EIR fail to address the real, substantial source of rural development increase? Is it inaccurate to state that agricultural land losses would be attributed to low and very low income housing, when in fact the vast majority of the rural residential development, due to the cost of the land and infrastructure, and utility development, will by necessity be upper end housing? Is it inaccurate to attribute a 300% increase in rural residential development to low and very low income housing programs, when in fact it is unlikely that any low and very low income housing units will be built in unincorporated Solano County due to the costs? Is it true that over the build out of the 2008 General Plan, fully 9% of Solano County farmland will be converted to other uses? Is it true that, counting farmland and habitat losses, over 67 square miles of Solano County rural lands will be converted into residential, commercial and industrial uses? 61-42
61-43

61-44

Subject: Chapter 6, Economic Development

Broadly, one could see that the intent of this section is logical, to attract business to Solano to provide more and better paying, diverse local jobs, and economic vitality. Some of the same vague words are used repeatedly throughout this section, such as “nurture” “support” and “encourage”, with few specifics. Few specifics can easily translate into little control or administrative oversight, creating a land rush atmosphere in which Solano County land resources are sold off to the highest bidders without proper planning and long-term direction. I am concerned that the General Plan is designed as a land grab, and put in place by economic interests with a for profit motive, rather than a document which projects the progressive development of a rural county on behalf of the broad long-term best interests of all of its citizens.

61-45

More darkly, the General Plan intends to target unincorporated county land for the location of much of this business expansion, and directs the reader to the “Agriculture Section” for more on how that plays out in regards to Ag. (ED-3) It is clear that they intend to use land that presently has Ag zoning, for commercial, office and industrial development, as well as Ag industries such as wineries. They comment on the need for “adequate land for commercial and industrial uses” (ED-3), be that roadside commercial for travelers, Ag processing centers near the existing city limits, or apparently free-standing commercial and industrial centers in rural county areas.

61-46

They discuss the need for financial incentives to attract business, yet at the same time comment that there should be a number of businesses willing to relocate as the land is cheaper than in the Bay Area.

They state that the economic vitality they seek would “supersede the ABAG projections for Solano County from 2000-2030, through General Plan changes in policy and land use.” (ED-5) **Obviously, this is diametrically opposed to the plans claims of operating under the goal of sustainable development.** They do not state why they may set the goal of beating the ABAG projections; perhaps they feel the ABAG projections are not robust enough. Much of the Economic Development dialogue starts of reasonably enough, then proceeds far beyond anything that is needed based on our existing population. Attracting businesses usually means attracting the workers of those businesses, which in turn creates more houses, schools, cars, etc; starting the cycle all over again. They are not even attempting to think this through. I find these claims of more and bigger troubling, as they go far beyond the needs that are presented as the basis for these initiatives.

61-47

Oddly, alternative energy industry, specifically wind among others, is cited as a target industry. (ED-7) How this fits with eliminating 2000 acres of previously designated wind overlay Ag area beats me!

61-48

Cites areas away from populated areas for industrial uses, Collinsville and Lambe Road. The sheer size of these areas should give us cause for alarm. Lambe Road is 1525 acres, the use of which may be dictated by the Air Force as much as anything else. The Collinsville site is 6800 acres with an added 2900 acre expansion area, for a total of 9700 acres of potential industrial use. (This is enough area for a city) Be prepared for a re-emergence of the petrochemical plant or worse in Collinsville. Equally oddly, they cite the need to plan for the effects of global warming and climate change, including the potential rise in sea levels, but fail to see how this would put the Collinsville site largely underwater.

61-49

Additionally, the Collinsville site lost its status as a potential port over 20 years ago. One can speculate wildly regarding who or what is driving this initiative. It is not happening by accident. The residents of Collinsville want nothing to do with it.

61-49
Cont'd.

Another concern is the discussion of "Opportunity Sites" which are basically the reclassification of Ag lands in unincorporated areas, into commercial, industrial, and office uses. **I find it especially troubling that the plan mentions twice in the narrative that "under the Orderly Growth Initiative, voter approval would be required for use of unincorporated land for commercial or industrial uses."** (ED-9) My understanding is that the approval of this plan would obviate the Orderly Growth Initiative, and even if it didn't, the Initiative expires in 2010 anyway. This is deceptive.

61-50

Equally troubling is that the plan cites the need for "infrastructure planning in order to attract the businesses to these unincorporated areas." This represents the government as owner/ developer, changing land use designations and putting infrastructure in place prior to having business express interest in the areas. Modern planning has proven that growth and development follow infrastructure. I believe it is a valid question as to whether the County government should be actively promoting development in unincorporated, rural Solano County in the first place, much less involving themselves in infrastructure planning. We are not a land resource for Bay Area development, and our County administration offices are not a land development business. The County has a responsibility to serve and protect the long-term best interests of all citizens, not facilitate the economic goals of landowners and outside development interests. How do the aggressive development policies in the draft General Plan serve the existing citizens of Solano County? At what cost?

61-51

Again, repetitions of the words promote, preserve, protect, support, and encourage fail to form a substantial backbone to the scope of broad development and fail to lend credibility to the ability of our County to control what they intend to put in motion.

RE: Impact of General Plan Changes to the County Public Facilities Agreement

The General Plan rural development policies, such as the Middle Green Valley proposal, if adopted, will void the existing Public Facilities Agreement between the cities of this county and Solano County, based on the terms of the agreement. Solano County, and its residents, have benefited greatly because of this agreement that has been in existence since 1993. Solano County is one of the most financially stable governments in this state –and this agreement is why.

I am unable to locate any information within the General Plan or EIR that would suggest that any consideration has been given to the agreement and the enormous and irreversible impacts to the county's financial health that will result if changes are made to the General Plan promoting development in unincorporated rural Solano County. The last data that I have, March 2006, is that Solano County has collected over \$84 million dollars under this agreement for things like operating costs, libraries and jail expansion. Solano is one of only two financially stable counties in the State of California, and this is largely due to the agreement it has with the cities.

61-52

Under the Public Facilities Agreement, cities confirm their continued desire and support for city centered growth. They have agreed to collect significant development fees on behalf of the county as long as the county meets certain obligations. Those obligations require that the county:

- Must maintain a land use policy of "what is urban must be municipal."
- Must not amend or alter the General Plan to increase existing densities or existing designations of residential, commercial and industrial land uses presently in place.

- Support land use limitations that are “similar” to those provided in Measure A.

Development of an urban nature in Middle Green Valley would place this advantageous agreement in jeopardy. Should these conditions be breached by the County, the agreement provides that the “fee will be automatically terminated.” In that event, the reasonable tax base that we all enjoy and the stable county government we have will be lost.

I urge the County to carefully to review the terms of this agreement and to maintain the existing policies that support city centered growth and protect the financial health of our community. How does the county intend to replace these lost funds? County accounting staff are of the opinion that the county is due these fees, and that the county will collect them if the cities do not. If this were true, wouldn't all of the bankrupt counties all across the state be doing exactly that? I believe this attitude to be inaccurate, and that there will be substantial out and out losses of revenue if the County takes this bellicose position regarding these fees. The County Administration has been in such a favorable position financially, for such an extended period of time, they have developed the attitude that it is their right. This is inaccurate, and a review of the financial state of most California County governments should give pause for thought.

61-52
Cont'd.

Redraft and Recirculation:

As of 7-17-08, there are a myriad of major and minor changes and adjustments to the draft General Plan update, some of which dramatically change the direction and scope of the draft General Plan update as circulated for public and agency review and comment. The present draft General Plan, which is about to go before the Planning Commission then the Board of Supervisors for consideration, has not been seen by the public and agencies. I believe the county has an obligation under CEQA to provide the public and agencies with a revised draft of the plan which is under consideration for approval, for their review and comment. Only when the plan becomes stable can the Board of Supervisors act with assurance that the citizens have had a full opportunity to view and understand the document which will be their guide to the future of Solano County for the next 20 years. Without that opportunity, the citizens have the right to sue, stop the plan, and exercise their rights under the law to insure that they are part of the development and finalization of this important document, and have had the opportunity to comment on it with all revisions included. While the Board majority may feel that they have no obligation to the citizens in regarding to creating this opportunity to view the complete plan; it may also become true that the citizens feel they no longer have any obligation to the Board majority to support such behavior. The rush is to consensus at this point, not a rush to impose a plan on the citizens.

61-53

Very Truly Yours,

Bill Mayben
Fairfield, CA 94534

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- 61-1 The comment is noted. Although this comment does not relate specifically to the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.
- 61-2 The comment is noted. Please refer to Master Response I, “Orderly Growth Initiative.”
- 61-3 The DEIR acknowledges the Solano County Orderly Growth Initiative as part of the discussion of existing land use conditions (see Section 4.1.1, “Land Use”) and as part of the regulatory framework (see Section 4.1.2, “Land Use”). Further, the DEIR fully and adequately analyzes potential conflicts between implementation of the 2008 Draft General Plan and other plans (e.g., Orderly Growth Initiative) (see Impacts 4.1-2a and 4.1-2b, “Land Use”). Please also refer to Master Response I in the FEIR. No further response is necessary.
- Related to what measures ensure the 2008 Draft General Plan does not accelerate the conversion of agricultural lands, the DEIR includes Mitigation Measure 4.1-4a, which recommends amending Program AG.I-1 to increase the minimum mitigation ratio to 1.5:1 or higher for farmland conversion to mitigate the impacts of new nonagricultural uses on adjacent and neighboring agricultural operations (see Impact 4.1-4a, “Land Use”).
- The commenter asks what policies deal with unmitigable effects of the Maximum Development Scenario and asks if the Maximum Development Scenario should be the subject of the DEIR. The DEIR analyzes impacts of implementing the 2008 Draft General Plan as proposed and identifies significant impacts that cannot be mitigated to less-than-significant level. The Maximum Development Scenario is not a separate plan or alternative that would be “the subject of the DEIR” distinct from the draft General Plan (preferred plan), but is presented as a theoretical intensity of project to analyze the impacts that might occur if the actual level of development is more intense than is likely to occur under the Preferred Development Scenario. Please refer to Master Response B, “Use of Two Development Scenarios,” which explains that the maximum development scenario would be extremely unlikely, if not impossible, to actually occur. The DEIR fully analyzes potential environmental impacts associated with implementing the 2008 Draft General Plan under the Maximum Development Scenario. In addition, the DEIR recommends mitigation measures specific to the Maximum Development Scenario. No further response is necessary.
- 61-4 The commenter refers to Section 2.3 of the DEIR, which outlines the objectives of the proposed project (i.e., 2008 Draft General Plan) which is required under CEQA. The commenter then asks what the basis is for economic development beyond what is sufficient. It is unclear what the commenter is asking; however, the comment does not relate to the adequacy of environmental analysis conducted in the EIR. In addition, as stated in Section 15131(a) of the State CEQA Guidelines, “Economic or social effects of a project shall not be treated as significant effects on the environment.” In other words, the economic or social changes that a project (in this case, the 2008 Draft General Plan) may cause are not, in and of themselves, significant environmental effects that require analysis in an EIR. For these reasons, and because this comment does not raise significant environmental issues related to the 2008 Draft General Plan, no further response is necessary.

61-5 The commenter asks what findings the plan provides to justify the conversion of agricultural land, habitat, grasslands, and woodlands. The DEIR fully and adequately analyzes impacts associated with conversion of these resources to urban development as envisioned in the 2008 Draft gGeneral Plan (see Impacts 4.8-1a and 4.8-1b, “Agricultural Resources,” and Impacts 4.6-1a through 4.6-12b, “Biological Resources”). Separate findings will be adopted by the County Board of Supervisors in order to certify the FEIR and adopt the 2008 Draft General Plan.

The commenter asks how the DEIR addresses the issue of sustainability. It is unclear what aspect of sustainability the commenter is referring to because sustainability covers numerous issues within the environment, society and community, and economy. However, the DEIR did analyze an “Improved Environmental Sustainability” Alternative in Chapter 5. That alternative explored how reduced amounts of development of land designated Rural Residential, Limited Industrial, Water-Dependent Industrial, Service Commercial, Highway Commercial, and Agricultural Tourist Center in areas outside of established municipal service areas (MSAs), and increased amounts of land within the proposed Agricultural Reserve Overlay and Resource Conservation Overlay would affect the impact conclusions as compared to the proposed 2008 General Plan.

61-6 The commenter asks if the 2008 Draft General Plan is attempting to both 1) ensure cities provide the growth to meet all needs while 2) the County generates rural development in excess of needs. Although this comment does not relate specifically to the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.

The commenter further asks how the DEIR addresses the balancing of General Plan policy considerations for economic development and growth with resource conservation. The purpose of the DEIR is to analyze potential direct and secondary, and cumulative impacts that could occur to the environment with implementation of the 2008 Draft General Plan and to suggest mitigation to avoid or reduce significant or potentially significant environmental impacts of the Project in accordance with CEQA. Related to economic development, the DEIR is not required to analyze the potential economic effects of the implementing the 2008 Draft General Plan. As stated in Section 15131(a) of the State CEQA Guidelines, “Economic or social effects of a project shall not be treated as significant effects on the environment.” In other words, the economic or social changes that a project (in this case, the 2008 Draft General Plan) may cause are not, in and of themselves, significant environmental effects that require analysis in an EIR. Related to growth impacts on resource conservation, the DEIR fully and adequately analyzes impacts associated with conversion of resources (i.e., agricultural, biological, aesthetic, water) to urban development as envisioned in the 2008 Draft General Plan (see Impacts 4.8-1a and 4.8-1b, “Agricultural Resources;” Impacts 4.6-1a through 4.6-12b, “Biological Resources;” Impacts 4.11-1 through 4.11-4, “Aesthetic Resources;” and Impacts 4.5-1 through 4.5-4, Hydrology and Water Resources”). No further response is necessary.

61-7 The comment is noted. Although this comment does not relate specifically to the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.

61-8 The commenter refers to Table 4.1-8 of the DEIR which compares population potential under the 2008 Draft General Plan Preferred Plan at buildout with ABAG’s 2030 population forecast. Looking at Table 4.1-8, the commenter appears to state the DEIR does not “reconcile” the growth-inducing impacts associated with implementing the 2008 Draft General Plan. The DEIR concludes that “no feasible mitigation is available to reduce this impact” (see Impacts 4.1-5a and 4.1-5b, “Land Use”). Specifically, the DEIR concludes that the only way to reconcile the growth-inducing impacts would be to reduce the acreage devoted to residential use, decrease residential densities to reduce the projected number of dwelling units, or regulate the number of residential building permits that may be issued annually. Implementation of these actions could, as

concluded in the DEIR, increase the cost of housing in Solano County which would conflict with Objective C.1 and Policy C.1 of the 2008 Draft General Plan Housing Element that promote the production of housing for all segments of the population at all income levels. The DEIR fully “reconciles” the conclusions made regarding the growth-inducing impacts of the project.

- 61-9 The comment is noted. Although this comment does not relate specifically to the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.
- 61-10 The commenter asks what “overriding considerations justify” the significant and unavoidable impacts identified in the DEIR. As described in the CEQA Guidelines Section 15091, Solano County is not required to prepare or make findings for significant environmental effects until the County approves the 2008 Draft General Plan for which the DEIR was prepared. The appropriate vehicle for determining whether such overriding considerations exist and should be declared in the Board of Supervisors’ findings, not the EIR.
- 61-11 The commenter restates the number of acres of agricultural lands that exist in Solano County as identified in the General Plan document. The commenter then restates the number of acres of agricultural lands that would be lost to urban uses and the number of acres that could potentially be preserved through a mitigation ratio of 1.5 to 1. The commenter questions the sustainability related to the number of acres lost compared to the number of acres that would be preserved at the 1.5 to 1 ratio. The commenter asks how the General Plan accounts for initiating growth impacts and the increased rate of development pressures.
- Related to the loss of agricultural land, the DEIR fully analyzes impacts to agricultural resources in Section 4.8, “Agricultural Resources.” Related to growth impacts, the impact analysis conducted in the DEIR is based on the growth of urban development as envisioned in the 2008 Draft General Plan and if implemented. Therefore, the DEIR fully and adequately analyzes potential environmental impacts associated with implementing the 2008 Draft General Plan.
- 61-12 Please refer to Master Response C, “Rationale for Rural Residential Land Use Designations,” which addresses the commenter’s concerns.
- 61-13 Related to the comment about additional housing in the unincorporated Solano County not being needed, please refer to Master Response C.
- The commenter states the significant and unavoidable impacts to agricultural resources identified in the DEIR are more important than an increase in housing costs. The DEIR fully and adequately analyzes potential impacts to agricultural resources in accordance with CEQA (see Section 4.8, “Agricultural Resources”). The commenter’s belief that significant and unavoidable impacts to agricultural resources are more important than increases in housing costs is noted and will be forwarded to the Board of Supervisors for their consideration in determining whether to approve the Project.
- 61-14 The commenter asks how the DEIR addresses the present housing recession that has provided sufficient affordable housing and removed the need for additional development. These questions are primarily aimed at economic and social effects and are responded to as such. As stated in Section 15131(a) of the State CEQA Guidelines, “Economic or social effects of a project shall not be treated as significant effects on the environment.” In other words, the economic or social changes that a project (in this case, the 2008 Draft General Plan) may cause are not, in and of themselves, significant environmental effects that require analysis in an EIR. For this reason, and because this comment does not raise significant environmental issues related to the 2008 Draft

General Plan, no further response is necessary. The comment will, nevertheless, be forwarded to the Board of Supervisors for their consideration.

61-15 The comment, related to economic conditions, is noted. Although this comment does not relate specifically to the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.

61-16 The comment is noted. Although this comment does not relate specifically to the adequacy of environmental analysis conducted in the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.

61-17 It is unclear how policies of the 2008 Draft General Plan “over-ride[s] available resources.” These comments appear to relate to the overall concept of sustainability. However, it is unclear what aspect of sustainability the commenter referring to because sustainability covers numerous issues within the environment, society and community, and economy. Although this comment does not relate specifically to the adequacy of environmental analysis conducted in the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.

61-18 Please refer to Response to Comment 61-17.

61-19 The commenter is incorrect. The DEIR recommends mitigation for impacts related to the loss of value of upland grassland, oak woodland, oak savannah, and scrub/chaparral habitats related to the acres lost. Specifically, the DEIR identifies “the subdivision of these communities into units less than approximately 40 acres would result in reductions in habitat values and biological diversity” and Mitigation Measure 4.6-2a(2) would require habitat preservation actions based on whether the “continuous block of habitat” would be greater or less than 40 acres. In addition, the DEIR recommends mitigation that would require Solano County to include in its Oak Woodland Protection Ordinance a specific replacement ratio for all native trees and shrubs (see Mitigation Measure 4.6-2a(3), “Biological Resources”).

Related to the commenter’s question of the General Plan’s objective to preserve the county’s rural character by replacing converted habitat with mitigation lands, the DEIR identifies policies of the General Plan aimed directly at protecting scenic features of Solano County (see Impact 4.11-1 through 4.11-3, “Aesthetic Resources) and recommends mitigation measures to further protect the visual character and scenic resources (see Mitigation Measures 4.11-2a and 4.11-3a, “Aesthetic Resources”).

The DEIR fully and adequately analyzes impacts associated with conversion of habitat (i.e., biological) to urban development as envisioned in the 2008 Draft General Plan (see Impacts 4.6-1a through 4.6-12b, “Biological Resources”) of which includes mitigation ratios for preserving habitat (see Mitigation Measures 4.6-1a through 4.6-6a and 4.6-9a through 4.6-11a, “Biological Resources”). In addition, the 2008 Draft General Plan includes policies and programs that require habitat replacement or preservation ratio by development projects (e.g., Program SS.I-1, Program RS.I-3). No further response is necessary.

61-20 The comment is noted. Although this comment does not relate specifically to the adequacy of environmental analysis conducted in the DEIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.

61-21 The commenter states that the DEIR and the 2008 Draft General Plan fail to provide measures to avoid the spread of Sudden Oak Death Syndrome, which the commenter purports to exist in Green Valley. The commenter additionally states that the County fails to map the areas in which

Sudden Oak Death Syndrome is established, and does not project a county-wide plan for its containment. While Sudden Oak Death Syndrome is a concern of the County, the EIR for the project is not required to analyze the impacts of the disease on the County's oak populations. Sudden Oak Death Syndrome is not considered a component of the project under review, nor would the proposed Project contribute to the occurrence or spread of Sudden Oak Death Syndrome.

61-22 The commenter is incorrect. The DEIR identifies areas of potential seismic activity by mapping past regional seismic activity (see Exhibit 4.7-2, "Geology and Soils"), by listing active faults along which historic movement has been documented (see Table 4.7-2, "Geology and Soils"), by listing historic earthquakes within 50 miles of Solano County (see Table 4.7-3, "Geology and Soils"), and by mapping liquefaction hazards in Solano County (see Exhibit 4.7-3, "Geology and Soils").

The commenter states funding shortfalls currently occur for volunteer fire departments and medical response teams and the commenter asks who is responsible for addressing this issue., The DEIR fully and adequately analyzes potential impacts to fire services (see Impacts 4.9-7a and 4.9-7b, "Public Services and Utilities"). As identified in the DEIR, "The 2008 Draft General Plan is intended to achieve steady and orderly growth that allows for the adequate provision of services and community facilities. To support this goal as it relates to fire protection and emergency services, the plan outlines policies to ensure the provision of adequate services in Solano County." The DEIR concludes that implementation of the goal and policies included in the 2008 Draft General Plan would address impacts to fire protection services from population growth in Solano County under buildout of the plan (see Impacts 4.9-7a and 4.9-7b, "Public Services and Utilities").

61-23 It appears the commenter misunderstands the term "small-lot" as used in Section 66473.7 of the Government Code (see Mitigation Measure 4.9-1a(1), "Public Services and Utilities"). The term "small-lot" refers to the type of subdivision map and not to the actual size of lots shown on the subdivision map. In fact, the mitigation measures recommended in the DEIR relate to all residential subdivisions regardless of their location (e.g., rural residential areas). Please refer to the water supply analysis conducted in the DEIR (see discussion under Impact 4.9-1a, "Public Services and Utilities). Please also refer to Master Response R, "Insufficient Water Supply Assessment" in Chapter 2 the FEIR.

61-24 These comments appear to relate to the overall concept of sustainability. The DEIR fully and adequately analyzes potential impacts associated with implementing the 2008 Draft General Plan related to insufficient water supplies to meet the future water demand in unincorporated areas served by the county (see Impacts 4.9-1a and 4.9-1b, "Public Service and Utilities"). Specifically related to potential drought conditions, the DEIR fully analyzes the water supply and water demand for Solano County under multiple dry years (i.e., drought) (see Table 4.9-6 and associated discussion under Impact 4.9-1a, "Public Services and Utilities"). Related to water supplies needed to serve added population during a drought, the DEIR identifies Solano County along with the cities of Fairfield, Vacaville, Vallejo, and Suisun City entered into a Drought Measures Agreement with the two agricultural Solano Project contracting districts (SID and MPWD) to share water supplies during drought periods (see discussion under Impact 4.9-1a, "Public Services and Utilities"). Please also refer to Master Response R, "Insufficient Water Supply Assessment," in Chapter 2 of the FEIR.

61-25 The DEIR fully analyzes water supply and water demand for Solano County, including groundwater and aquifer water sources (see discussion under Impact 4.9-1a, "Public Services and Utilities"). Specifically, the DEIR states "independent groundwater wells and local waterway diversions are utilized in areas where no [water] service provider is available. The water districts

... rely on water largely from surface water sources, including primarily [Solano County Water Agency] SCWA and the Solano Project, and the North Bay Aqueduct.” Please also refer to Master Response R, “Insufficient Water Supply Assessment,” in Chapter 2 of the FEIR.

The DEIR fully and adequately analyzes cumulative impacts associated with implementing the 2008 Draft General Plan (see Section 6.1, “Other CEQA Considerations”, see also pages 4-174 through 7-175 of Chapter 4 of the FEIR and Master Response R, “Insufficient Water Supply Assessment”). In addition, the DEIR prepared for the 2008 Draft General Plan analyzes potential environmental impacts at a program-level. Potential environmental impacts that could occur from specific, individual “surface dispersal systems” and/or “package treatment facilities” would be required to be analyzed as part of subsequent environmental analysis and at project-level under CEQA. Please also refer to Master Response E, “Programmatic Nature of the EIR,” in Chapter 2 of the FEIR.

61-26 Please refer to Response to Comment 61-25.

61-27 The commenter asks how aquifer health and groundwater contamination control can be assured with implementation of the 2008 Draft General Plan. The DEIR fully analyzes the potential impacts that could occur to groundwater resources with implementation of the 2008 Draft General Plan, including contamination. The DEIR concludes that policies and programs in the 2008 General Plan and current state and federal regulations would not prevent all potential releases of hazardous materials but would serve to minimize both the frequency and the magnitude of any releases (see Impacts 4.13-1a and 4.13-1b, “Hazards and Hazardous Materials”). In addition, the DEIR fully analyzes impacts to water quality associated with construction and operation of new development (see Impacts 4.5-1 through 4.5-3, “Hydrology and Water Quality”). Please also refer to Master Response O of the FEIR.

The commenter asks how county taxpayers can be assured that they would not be responsible for providing water and sewer services to new rural developments. As stated in Section 15131(a) of the State CEQA Guidelines, “Economic or social effects of a project shall not be treated as significant effects on the environment.” In other words, the economic or social changes that a project (in this case, the 2008 Draft General Plan) may cause are not, in and of themselves, significant environmental effects that require analysis in an EIR. For this reason, and because this comment does not raise significant environmental issues related to the 2008 Draft General Plan. However, the DEIR fully analyzes potential impacts associated with increased demand for water supply and wastewater facilities (see Impacts 4.9-2a, 4.9-2b, 4.9-4a, and 4.9-4b, “Public Services and Utilities”).

61-28 The DEIR fully and adequately analyzes potential impacts associated with implementation of the 2008 Draft General Plan related to solid waste disposal (see Impacts 4.9-5a and 4.9-5b, “Public Services and Utilities”). Specific to hazardous wastes, the DEIR fully analyzes potential impacts associated with the release of hazardous materials (see Impacts 4.13-1a and 4.13-1b, “Hazards and Hazardous Materials”). In addition, the DEIR identifies policies and programs of the 2008 Draft General Plan aimed at safely transferring, treating, storing, and disposing of hazardous wastes (see discussion under Impact 4.13-1a, Hazards and Hazardous Materials”).

61-29 The DEIR fully and adequately analyzes potential impacts associated with implementation of the 2008 Draft General Plan related to library services (see Impacts 4.9-9a and 4.9-9b, “Public Services and Utilities”).

The commenter asks whether mitigation measures would be feasible to reduce impacts related to increased demand from library services. The 2008 Draft General Plan provides policies that would assist in providing library services to the growing population in Solano County, although

implementation of the proposed policies would not reduce impacts to library services to a less than significant level. No mitigation is available beyond the 2008 Draft General Plan policies discussed under Impact 4.9-9a above because it is uncertain where future developments would take place specifically and mitigation would need to be determined at a project-level basis directly related to the location of future development and the needs of the specific area where development is proposed. This EIR analyzes library services at a program level and provides policies that direct future development to provide library services subsequently. Individual development projects (e.g., rural residences, industrial, neighborhood commercial) would require their potential impacts to library services be analyzed at a project-level.

61-30 The commenter references the conclusion made in the DEIR that there are not any feasible mitigation measures available for significant impacts to aesthetic resources. Specifically, the DEIR states “no feasible mitigation measures or policies are available that could fully preserve the existing visual qualities of Solano County while allowing development of urban land uses under the” 2008 Draft General Plan (see Impacts 4.11-1a and 4.11-1b, “Aesthetic Resources”).

The commenter asks what effect an ordinance preventing ridge top development, use of natural materials, requiring limited building envelopes, use of natural landscaping, requiring clustered development, and preserving open space and wildlife corridors would have on scenic vistas. Although implementation of these measures could reduce impacts to aesthetic resources at a project-level, the DEIR analyzed impacts to aesthetic resources a program-level. In addition, mitigation measures recommended in the DEIR would need to be implemented across the entire county on all projects.

However, the DEIR identifies policies of the 2008 Draft General Plan that would “reduce the severity” of the significant impact (see discussion under Impact 4.11-1a). The DEIR analyzes visual impacts at a program level (see Section 1.1, “Introduction”) whereas subsequent, individual development projects (e.g., rural residences, industrial, neighborhood commercial) would require their potential visual impacts be analyzed at a project-level. Implementation and recommendation of specific design elements (i.e., mitigation measures) would be more effective at the project-level. The DEIR prepared for the 2008 Draft General Plan is not required to define specific mitigation measures (i.e., design elements) that could reduce visual impacts associated with individual development projects because these mitigation measures would be defined as part of subsequent environmental review required under CEQA. The DEIR adequately concludes implementation of policies in the 2008 Draft General Plan would reduce impacts to scenic vistas at a program-level. Please also refer to Master Response E, “Programmatic Nature of EIR” in Chapter 2 of the FEIR.

61-31 The commenter asks what specific measures can be incorporated into the General Plan to reduce cumulative impacts. The commenter asks what advantages and benefits does the General Plan provide to County residents to offset and justify the cumulative impacts. The DEIR fully analyzes cumulative impacts associated with implementation of the 2008 Draft General Plan (see Section 6.1, “Other CEQA Considerations”). In addition, the DEIR identifies what feasible mitigation is available to reduce cumulative impacts and identifies why, in some cases, feasible mitigation is not available to reduce cumulative impacts. Please refer to Section 6.1, “Other CEQA Considerations,” of the DEIR and Chapter 4, Corrections and Revisions to the DEIR” (specifically, pages 4-172 through 4-177), of the FEIR.

61-32 The commenter refers to a County staff comment identifying the number of programs that would be required to manage and direct new policies and programs in the 2008 Draft General Plan. The commenter states that implementation of the General Plan would result in rampant growth. The DEIR fully and adequately analyzes all potential environmental impacts associated with urban growth envisioned in the 2008 Draft General Plan.

61-33 The commenter refers to DEIR's reference to Middle Green Valley as a "separate region because of agricultural characteristics of the valley and 2008 Draft General Plan policies recommending a specific plan for Middle Green Valley." It appears the commenter is expressing concern with a specific plan for the Middle Green Valley which would be considered a separate project from the 2008 Draft General Plan. Analysis of potential impacts to agricultural resources associated with implementing a specific plan for Middle Green Valley would be conducted as part of a subsequent environmental document as required under CEQA.

The commenter asks how it is possible for the reader of the General Plan or EIR to determine the nature of the 10 agricultural regions without being able to review those plans. For the remaining regions, a strategic plan will be prepared to address marketing and economic issues. Similar to the response above, each strategic plan prepared for a specific agricultural region would be considered a separate project from the 2008 Draft General Plan. Analysis of potential impacts to agricultural resources associated with implementing a strategic plan for a specific agricultural region would be conducted as part of a subsequent environmental document as required under CEQA. The DEIR fully and adequately analyzes potential impacts to agricultural resources associated with implementation of the whole of the Project – implementation of the 2008 Draft General Plan. Please refer to Master Response E, "Programmatic Nature of EIR."

61-34 The commenter asks where analysis of the environmental impacts associated with public services needed to serve rural development. Analysis of potential environmental impacts resulting from implementation of public service projects (e.g., wastewater treatment facility, water treatment facility) would be conducted as part of a subsequent environmental document as required under CEQA because these projects would be considered separate projects from the 2008 Draft General Plan. In addition, proposed rural development projects (e.g., rural residential subdivision) would require subsequent environmental impact analysis as required under CEQA. This subsequent environmental analysis would also be required to analyze secondary impacts associated with implementing rural residential developments (e.g., construction and operation of water and wastewater treatment facilities). However, the DEIR fully and adequately analyzes potential impacts associated with implementation of the 2008 Draft General Plan.

The commenter asks what provisions are made in the 2008 Draft General Plan for public services and infrastructure needs of rural development projects. The DEIR fully analyzes the adequacy of public services and utilities to serve rural development as envisioned in the 2008 Draft General Plan (see Impacts 4.9-1 through 4.9-9, "Public Services and Utilities").

61-35 The commenter asks what measures are provided to prevent the "preferred plan" from accelerating to the "maximum development scenario?" As identified in the DEIR, the Maximum Development Scenario is "analyzed to demonstrate the highest possible level of environmental impact that could result from the project" (see Section 2.4.2, "Executive Summary"). The purpose of analyzing implementation of the 2008 Draft General Plan at the Maximum Development Scenario throughout the environmental analysis is to determine what, if any, additional environmental impacts could occur if development occurred under a theoretical worst-case scenario. Please also refer to Master Response B, "Use of Two Development Scenarios" in the FEIR, which further addresses the commenter's concerns. As noted therein, and elsewhere in the DEIR, the County does not consider the Maximum Development Scenario to be a realistic or likely development pattern, based on substantial evidence regarding the level of buildout experienced by other agencies across the state and the County's own experience. The EIR analyzed the Maximum Development Scenario for informational purposes only.

61-36 The commenter states the DEIR does not provide a table comparing the General Plan maximum buildout to the existing plan period. The commenter states that implementation of the 2008 Draft General Plan would increase the rate of agricultural land conversion by approximately 50% over

the existing plan. However, it is unclear what the commenter is questioning or to what the commenter is referring. Table 4.8-1 shows historical farmland conversion occurring in Solano County. The DEIR identifies 21,971 acres of agricultural land uses, along with 4,131 acres of Important Farmland, would be converted to urban land uses with implementation of the 2008 Draft General Plan (see Impact 4.8-1a and 4.8-1b, “Agricultural Resources”) which is based on existing conditions. No further response can be provided.

61-37

The commenter states the DEIR does not discuss impacts of agricultural land conversion to development on adjoining land. The commenter is incorrect. The DEIR fully analyzes potential conflicts and incompatibilities between agricultural and residential land uses which could pressure agricultural land uses to convert to urban land uses (see Impacts 4.1-4a and 4.1-4b, “Land Use”).

The commenter asks where the DEIR discusses impacts of population growth on agricultural resources. Potential impacts analyzed in the DEIR (see Impacts 4.8-1a through 4.8-2b, “Agricultural Resources”) result from implementation of the 2008 Draft General Plan. Implementation of the 2008 Draft General Plan in itself would result in population growth from new urban development as envisioned in the plan. Therefore, the DEIR fully and adequately analyzes impacts to agricultural resources from population growth.

The commenter asks how the General Plan expands rural development and preserves agricultural resources. The DEIR concludes that significant and unavoidable impacts to agricultural resources would result with implementation of the 2008 Draft General Plan (see Impacts 4.8-1a through 4.8-2b, “Agricultural Resources”) which envisions new rural development. However, the 2008 Draft General Plan also includes Program AG.I-1, which requires developers to mitigate conversion of farmland at a specific ratio. Although not all farmland in Solano County can be preserved while at the same allowing for new rural development, the 2008 Draft General Plan identifies agriculture as an important resource in Solano County and includes numerous policies and programs aimed at protecting and preserving as much of the agricultural resources as feasible.

The commenter asks whether, if the policies of the 2008 Draft General Plan create significant and unavoidable impacts to Important Farmland, the General Plan policies should be revisited. In fact, the DEIR does revisit the policy of the General Plan related to the creation and adoption of a farmland conversion mitigation program and ordinance (i.e., Program AG.I-1) (see Mitigation Measure 4.1-4a, “Land Use”). As stated in the DEIR, a significant and unavoidable impact would occur because any actions taken by the County, including policies and programs in the proposed 2008 Draft General Plan, would only partially offset conversions of Important Farmland associated with new urban development, loss of Important Farmland and a net loss of Important Farmland cannot be fully compensated for. Therefore, revisiting policies of the 2008 Draft General Plan would not change the significance conclusion made in the DEIR.

61-38

Please refer to Response to Comment 61-37. In addition, as part of analyzing incompatibility between agricultural and residential land uses, the analysis in the DEIR assumes pressure for agricultural land uses to convert to urban land uses would result from population increases from development of new residential land uses (see Impact 4.1-4a and 4.1-4b, “Land Use”). Similarly, potential conflicts between the 2008 Draft General Plan and various plans, programs, and regulations (e.g., Delta Protection Plan, Suisun Marsh Protection Plan), which are aimed at protecting habitat, open land, and marshlands, are analyzed fully in the DEIR (see Impacts 4.1-2a and 4.1-2b, “Land Use”).

61-39

The commenter asks how the General Plan expands rural development and preserves agricultural resources. As identified in the DEIR, “The 2008 Draft General Plan provides numerous policies

that are intended to protect future productivity of agricultural land uses in Solano County and to mitigate their loss (i.e., Agricultural Reserve Overlay). ... Overall, implementation of land uses envisioned in the 2008 Draft General Plan ... would continue to result in the loss of agricultural land uses, including Important Farmland, to urban development” (see Impacts 4.8-1a and 4.8-1b, “Agricultural Resources”). There are no mitigation measures, or General Plan policies, that could both prevent the loss of any farmland, including Important Farmland, and continue to allow urban development and growth in Solano County. Notably, Alternative 2, “Improved Environmental Sustainability,” Alternative 3 “Reduces Commercial and Industrial,” and Alternative 4, “Reduced Rural Residential,” analyzed in DEIR Chapter 6 would result in less development than the 2008 Draft General Plan and associated loss of farmland. The commenter’s apparent preference for a reduction in rural residential development is noted and will be forwarded to the Board of Supervisors for its consideration. Please also refer to the third paragraph of Response to Comment 61-37.

61-40 The DEIR fully analyzes potential conflicts with Williamson Act contracts (see Impacts 4.8-2a and 4.8-2b, “Agricultural Resources”). No further response can be provided.

The commenter is correct that Solano County does not currently participate in the Super Williamson Act (i.e., Farmland Security Zone program). However, approval of the 2008 Draft General Plan would require the County to “establish [such] programs to preserve farmland, and encourage eligible property owners to participate in a County-led preserve program” (see Program AG.I-17 of the 2008 Draft General Plan).

61-41 The commenter asks where the 2008 Draft General Plan identified residential development standards for rural residential projects limited to low and very low income housing. The commenter then refers to Policy AG.P-33 of the General Plan and asks if the plan limits residential development to these uses (i.e., low and very low income housing). However, the DEIR fully analyzes potential impacts associated with implementation of Policy AG.P-33 of the 2008 Draft General Plan (see Impact 4.8-1a, “Agricultural Resources”).

61-42 It is unclear what the commenter is referring to by “real, substantial source of rural development increase.” However, the DEIR fully analyzes all environmental impacts associated with implementation of the 2008 Draft General Plan, including rural development.

61-43 Although it appears the commenter is referring to Policy AG.P-33 of the General Plan, it is unclear how or where the 2008 Draft General Plan or DEIR states that development of very low and low income housing would be solely attributable to the loss of agricultural land. However, the DEIR fully analyzes potential impacts associated with implementation of Policy AG.P-33 of the 2008 Draft General Plan (see Impact 4.8-1a, “Agricultural Resources”).

The commenter states that low and very low income housing programs would attribute to a 300% increase in rural residential development and states that development of low and very low income housing would unlikely to be built because of costs. As stated in Section 15131(a) of the State CEQA Guidelines, “Economic or social effects of a project shall not be treated as significant effects on the environment.” In other words, the economic or social changes that a project (in this case, the 2008 Draft General Plan) may cause are not, in and of themselves, significant environmental effects that require analysis in an EIR. For this reason, and because this comment does not raise significant environmental issues related to the 2008 Draft General Plan, no further response is necessary.

61-44 The commenter states that 9% of farmland in Solano County would be converted to other uses with buildout of the General Plan. As identified in the DEIR, implementation of the 2008 Draft

General Plan would result in the loss of 21,971 acres of existing agricultural land uses total (see Impacts 4.8-1a and 4.8-1b, “Agricultural Resources”). The commenter is correct in that this acreage accounts for approximately 9% of existing agricultural land uses in Solano County (21,971 acres converted / 365,651 acres total in Solano County).

The commenter states 67 square miles of rural lands in Solano County would be converted to residential, commercial, and industrial uses. The commenter is incorrect. Implementation of the 2008 Draft General would result in development of approximately 21,294 acres (including special project areas) of new residential, commercial, and industrial land uses. This equates to 33.3 square miles. Existing residential, commercial and industrial uses cover approximately 15.1 square miles (9,463 acres). The 2008 Draft General Plan therefore could potentially convert approximately 18.1 square miles, not 67 square miles. Please refer to Table 4.1-6 in Section 4.1.1, “Land Use,” of the DEIR.

- 61-45 The commenter refers to and makes general statements about Chapter 6, “Economic Development,” of the 2008 Draft General Plan. As stated in Section 15131(a) of the State CEQA Guidelines, “Economic or social effects of a project shall not be treated as significant effects on the environment.” In other words, the economic or social changes that a project (in this case, the 2008 Draft General Plan) may cause are not, in and of themselves, significant environmental effects that require analysis in an EIR. For this reason, and because this comment does not raise significant environmental issues related to the 2008 Draft General Plan, no further response is necessary.
- 61-46 The commenter refers to and makes general statements about Chapter 6, “Economic Development,” of the 2008 Draft General Plan. As stated in Section 15131(a) of the State CEQA Guidelines, “Economic or social effects of a project shall not be treated as significant effects on the environment.” In other words, the economic or social changes that a project (in this case, the 2008 Draft General Plan) may cause are not, in and of themselves, significant environmental effects that require analysis in an EIR. For this reason, and because this comment does not raise significant environmental issues related to the 2008 Draft General Plan, no further response is necessary.
- 61-47 The commenter refers to and makes general statements about Chapter 6, “Economic Development,” of the 2008 Draft General Plan. As stated in Section 15131(a) of the State CEQA Guidelines, “Economic or social effects of a project shall not be treated as significant effects on the environment.” In other words, the economic or social changes that a project (in this case, the 2008 Draft General Plan) may cause are not, in and of themselves, significant environmental effects that require analysis in an EIR. For this reason, and because this comment does not raise significant environmental issues related to the 2008 Draft General Plan, no further response is necessary.
- 61-48 The commenter refers to and makes a statement regarding alternative energy industry (i.e., wind) in Chapter 6, “Economic Development,” of the 2008 Draft General Plan. The commenter also asks how alternative energy industry fits with eliminating 2,000 acres of previously designated wind overlay agricultural area. It is unclear what the commenter means in stating that the 2008 Draft General Plan would eliminate a “previously designated wind overlay area.” However, the DEIR fully analyzes potential impacts associated with establishment of a new Wind Energy Resource Overlay. Specifically, the DEIR concludes “although the Wind Energy Resource Overlay would allow the continuation of agricultural uses, the construction and maintenance of wind turbines themselves would require removing a certain amount of agricultural land from production” (see discussion under Impact 4.8-1a, “Agricultural Resources”).

61-49 The commenter refers to areas designated in the 2008 Draft General Plan for industrial uses (i.e., Collinsville, Lambe Road). The commenter warns for the “re-emergence of the photochemical plant or worse in Collinsville.” Although these comments do not relate specifically to the adequacy of environmental analysis conducted in the EIR for the 2008 Draft General Plan, they will be provided to the County Board of Supervisors for further consideration.

It appears the commenter is referring to the General Plan, citing the need to plan for effects of global warming and climate change, and states that these effects would put Collinsville largely underwater. The DEIR fully and adequately analyzes potential impacts associated with implementation of the 2008 Draft General Plan related to global warming and global climate change (see Section 6.2, “Other CEQA Considerations”).

The commenter states Collinsville lost its status as a port and speculates who or what is driving the initiative. Although this comment does not relate specifically to the adequacy of environmental analysis conducted in the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.

61-50 The commenter refers to discussion of Opportunity Sites in the 2008 Draft General Plan and states these areas are reclassification of agricultural lands in unincorporated areas for commercial, industrial, and office uses. The DEIR fully analyzes potential impacts related to the loss of agricultural lands associated with new commercial, industrial, and office uses envisioned in the 2008 Draft General Plan. Specifically, the DEIR analyzes potential impacts associated with Policy LU.P-25 of the General Plan that promotes industrial development in the unincorporated county in cases where locating such development near urban areas is not appropriate (see Impact 4.8-1a, “Agricultural Resources”).

The commenter refers to narrative in the 2008 Draft General Plan related to the relationship between requirements of the Orderly Growth Initiative and new commercial and industrial uses. The commenter states approval of the 2008 Draft General Plan would “obviate” the Orderly Growth Initiative and states the narrative in the General Plan is deceptive. Although this comment does not relate specifically to the adequacy of environmental analysis conducted in the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration. Please also refer to Master Response I, “Orderly Growth Initiative,” in Chapter 2 of the FEIR.

61-51 The commenter refers to and makes general statements about Chapter 6, “Economic Development,” of the 2008 Draft General Plan. The commenter asks how the development policies of the 2008 Draft General Plan serve the existing citizens of Solano County and “at what cost.” Although this comment does not relate specifically to the adequacy of environmental analysis conducted in the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.

61-52 The commenter states implementation of the 2008 Draft General Plan would void existing Public Facilities Agreements between cities and the County. Although this comment does not relate specifically to the adequacy of environmental analysis conducted in the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.

The commenter asks where in the General Plan and EIR consideration has been given related to the county’s financial health that would result with implementation of the 2008 Draft General Plan. As stated in Section 15131(a) of the State CEQA Guidelines, “Economic or social effects of a project shall not be treated as significant effects on the environment.” In other words, the economic or social changes that a project (in this case, the 2008 Draft General Plan) may cause are not, in and of themselves, significant environmental effects that require analysis in an EIR.

For this reason, and because this comment does not raise significant environmental issues related to the 2008 Draft General Plan, no further response is necessary.

61-53

The commenter states there are major and minor changes made to the 2008 Draft General Plan and states the revised General Plan should be provided to the public and agencies as obligated under CEQA. Please refer to Master Response F in the FEIR.

LETTER 62

JUNE GUIDOTTI

July 21, 2008

RECEIVED
DISTRICT ATTORNEY

08 JUL 21 AM 8:06

FAIRFIELD BRANCH
COUNTY OF SOLANO

June Guidotti
3703 Scally Road
Suisun California 94585

Received

JUL 21 2008

Solano County
Board of Supervisors

RESOURCE MANAGEMENT

JUL 21 2008

RECEIVED BY:

July 20, 2008

Solano County Board of Supervisors
675 Texas Street
Fairfield, California 94585

Re: July 21, 2008 Public Comment on the 2008 Draft & Final
General Plan on Agricultural Land Mitigation Bank.

To the Solano County Board of Supervisors,

We all understand that Solano County is valued for its agricultural resource, its important wetlands. Unfortunately The Solano County draft EIR proposed to significantly reduces, value agriculture lands and irreplaceable wetlands. The General Plan, thus, attempts to comply with CEQA by requiring all public and private developer of environmentally sensitive land, such as agriculture land or wetlands or endanger species habitats, to dedicate other lands that can be used to offset or (mitigate), the damage cause buy the project to lessen the effect to the environment. The General Plan proposed to create agricultural land by using zoning overlays and wetlands zoning overlays, for a land mitigation Bank would appear invalid. The use of agricultural land use zoning overlays and wetlands land use overlays in the proposed General Plan for a mitigation Bank would appear highly questionable.

There is a critical CEQA decision by the California Court of Appeal (Friends of the Kangaroo Rat v. California Department of Corrections (August 18, 2003) Fifth Appellate District Number F040956.) that asserts that the creation of a Land Mitigation Bank

or a Land Mitigation Bank or a Conservation Easement Program is an invalid Mitigation under CEQA. The Court Case challenged the County of Riverside General Plan, a similar General Plan to the proposed Solano County General Plan. The County of Riverside also proposed to give development applicants permits if their project would convert substantial farmland acreage into Non Agriculture uses if they fulfilled a requirement to purchase credit from a County Land Mitigation Bank, which, in turn would support the preservation of existing designated farmland acreage. Therefore Solano County needs to consider that, in accordance to CEQA LAW, Land Mitigation Banking may not be a VALID form of Mitigation for Farm Land or Wetland CONVERSION IMPACTS.

62-1
Cont'd.

The Solano County should seriously consider deleting its Land Bank Mitigation measure from the proposed Solano General Plan, as Riverside County did for its General Plan, because this is a fundamental feature regarding Solano County General Plan and because this is a late date in draft EIR comment period, it is my request that this letter be included in the final EIR for comment and Staff Discussion.

62-2

Comment
62
Response

June Guidotti
July 21, 2008

- 62-1 The commenter states that the mitigation programs contained in the 2008 Draft General Plan and the DEIR are inadequate. The case referenced by the commenter, *Friends of the Kangaroo Rat v. Dept. of Corrections* (2003) (5th Dist. Case No. F040956), was ordered depublished by the California Supreme Court on February 18, 2004 (Sup. Ct. Case No. S119786). Depublication means that the case is not citable precedent in a court of law. Therefore, agencies should not rely upon the reasoning and conclusions reached by the appellate court in such a case. For this reason no further consideration is necessary. Please also refer to Master Response J, “Biological Resources Mitigation Strategies.”
- 62-2 Please Refer to Response to Comment 62-1 above.

3 COMMENTS AND RESPONSES

This chapter contains the comment letters regarding the DEIR and FEIR, received shortly before the close of the public hearing on the 2008 Draft General Plan and FEIR (July 29, 2008). Comment letters and responses to comments are arranged in the order they were received:

Due to time constraints, less detail is provided in the responses to the comment letters included in Chapter 3 than is provided in the responses included in FEIR volume II, or in Chapter 2 of this volume. Each letter has been given an identification number. Responses are numbered so that they correspond to the appropriate letter. Where appropriate, responses are cross-referenced between letters or with a master response. Attachments referenced by commenters within their letters are a part of the County’s administrative record and are available for public review during regular business hours at the Solano County Department of Resource Management, 675 Texas Street, Suite 5500, Fairfield, California 94533.

Table 3-1 provides a list of the agencies and persons who submitted comments after the close of the public comment period on the DEIR, but prior to the release of volumes I and II of the FEIR

Comment Letter No.	Commenter	Agency	Date
63	Blandon Granger, Property Administrator	Sacramento Municipal Utility District	July 25, 2008
64	James DeKloe	Solano Community College	July 28, 2008
65	David Cates, President	Vallejo Heights Neighborhood Assc.	July 28, 2008
66	Michael Garabedian	Critical Mass Agriculture	July 29, 2008
67	Kenneth Browne	Sierra Club – Redwood Chapter	July 29, 2008
68	June Guidotti		July 29, 2008

LETTER 63

BLANDON GRANGER, PROPERTY ADMINISTRATOR,
Sacramento Municipal Utility District

July 25, 2008



SMUD

SACRAMENTO MUNICIPAL UTILITY DISTRICT
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P.O. Box 15830, Sacramento, CA 95852-1830; 1-888-742-SMUD (7683)

DPG 08-067

July 25, 2008

Mr. Jim Louie
Senior Planner
Department of Resource Management
County of Solano
675 Texas Street, Suite 5500
Fairfield, CA 94533

Resource Management
JUL 25 2008
AM 7:59
PIJ 12:45:16

RE: 2008 SOLANO COUNTY GENERAL PLAN AND FINAL EIR COMMENTS

Dear Mr. Louie:

The Sacramento Municipal Utility District (District) owns nearly 7,000 acres of property within the Collinsville Special Study Area. The Solano County (County) Board of Supervisors met on July 21, 2008, regarding the 2008 General Plan Update currently under review. The meeting included discussions of potential zoning changes from the currently published draft General Plan.

Based on my staff's discussions with you on July 23, 2008, these changes were apparently first discussed at the July 1, 2008 meeting. However, as recently as July 18, 2008, the County's Web site still showed the General Plan maps with the existing (full) water-dependent industrial (WDI) and water-dependent industrial reserve (WDIR) areas as recommended by the Citizens Advisory Committee.

In the District's letter to the County's Planning Services Division dated August 1, 2007, the District stated that it is "... considering potential developments on the property other than wind powered generation." Your recently proposed changes ignore the District's previous comments, creating a direct and significant effect on the future resource development potential of the District's property. This appears to be inconsistent with the County's responsibility under the California Environmental Quality Act (CEQA) to communicate proposed changes and respond to comments from public agencies and affected property owners. As we understand these changes, the District would apparently lose all water-dependent industrial (WDI) and water-dependent industrial reserve (WDIR) zoning on the parcels owned by the District, with the exception of the WDI zoning that would be retained on the portion of the (former Dow) property under option to One Vision Park.

The District understands why a reduction of the WDI and WDIR acreage would be considered given the County's Board of Supervisors intent to reduce the carbon footprint reflected in the General Plan. The District wishes to support the County's carbon reduction efforts while protecting the future development rights on District property. We believe these objectives can be mutually achieved.

The District herein reaffirms its desire, so stated at previous public meetings, including the meeting on July 21, 2008, that the County preserve the WDI and WDIR zoning on the District's property.

The District's land on the former Roberts, Dow, and Dozier-Presley properties has significant potential for additional clean energy development which compliment the existing and planned wind facilities, including energy storage, cogeneration, biofuels, advanced combined cycle, and solar. There may also be the potential for carbon sequestration in the eastern portion of the property in the WDIR area, which overlies a major part of the Sherman Island gas field. Although these developments are currently in the early planning stages, the development of the Solano Wind Project and resultant infrastructure demonstrates that the District is committed to, and capable of, implementing clean carbon-reducing electric generation technology on this property.

As you are aware, California Government Code section 53091 provides that zoning ordinances of a county shall not apply to the production or generation of electrical energy facilities that are subject to Section 12808.5 of the Public Utilities Code, or electrical substations in an electrical transmission system that receives electricity at less than 100,000 volts. While we would oppose any attempt to constrict our rights, we welcome an opportunity to assist the County in a cooperative approach to address a reduction of its carbon footprint. The District looks forward to discussing resolution of this issue at the Board of Supervisors meeting scheduled on Tuesday, July 29, 2008 and, if necessary, at the meeting scheduled to consider certification of the Final EIR for the 2008 Solano County General Plan on August 5, 2008.

Please direct any questions, requests for additional information, or written responses to:

Blandon Granger
Property Administrator
Sacramento Municipal Utility District
PO Box 15830 (Mail Stop B304)
Sacramento, CA 95852-1830

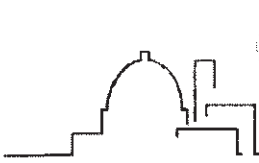
Sincerely,



Scott Flake
Manager, Power Generation

Attachment

cc: Solano County Board of Supervisors
Blandon Granger (SMUD), Property Administrator



SMUD

SACRAMENTO MUNICIPAL UTILITY DISTRICT
The Power To Do More.®

P.O. Box 15830, Sacramento, CA 95852-1830; 1-888-742-SMUD (7683)

August 1, 2007

Harry Englebright
Department of Resource Management, Planning Services Division
County of Solano
675 Texas Street, Suite 5500
Fairfield CA, 94533

Subject: Solano County General Plan Update

The Sacramento Municipal Utility District wishes to provide the following information to the Citizens Advisory Committee for consideration in their development of recommendations for the Solano County General Plan Update.

The Sacramento Municipal Utility District owns 6345 acres of the approximate 11,000 acres in the Collinsville study area. The property is within the Montezuma Hills Wind Resource Area and the District's primary purpose is to fully develop the wind powered electrical generation capabilities of the property.

Most wind to energy developers have elected to lease the wind power development rights. SMUD however has chosen to purchase the real property. Because the property is located in the Montezuma Hills Wind Resource Area it has a higher value than property with a solely agricultural land use designation and zoning. The District's property also has the land use designation and zoning of "Water Dependent Industrial" (WRI) which further increases its potential and value.

Development of the wind power resource will be accomplished in basically three stages. Phase I is completed and operational. Phase II is under construction and the environmental impact report is being prepared for Phase III. The District is also considering potential developments on the property other than wind powered generation.

The District's property is crossed by four high voltage electric transmission line corridors, three high pressure natural gas pipeline corridors, and one major fiber optic line corridor and has significant frontage on the Sacramento River and the Sacramento Deep Water Channel. While the utility transmission line facilities are sometimes viewed as a deterrent to development they are often a benefit to certain types of industrial users.

Harry Englebright
Department of Resource Management, Planning Services Division
County of Solano
August 1, 2007

Page 2 of 3

Some are concerned with the amount of acreage that is in the WRI land use designation. However from a practical viewpoint much of the property will not be developed industrially. The constraints of the wind turbines, utility transmission corridors, and overall topography are strong limiting factors. It is these same factors that preclude the limiting of the WRI land use designation to a specific area of the District's property. There are areas along the river that are obviously suitable for industrial development and there are areas off the river amongst the wind turbines that could sustain industrial development.

Wind powered electric turbine generator (WTG) facilities and the utility transmission corridors will not preclude industrial development on portions of District's property. Therefore the District intends to explore and be open to any development opportunities on these areas once the WTG capabilities have been developed. While it may take some time to bring everything together for industrial development the probability of it occurring is very real.

The County's Land Use and Zoning Maps are not fully definitive as to the assessor's parcels that are designated "Water Related Industrial". The District believes this can be best resolved by having the land use designation "Water Related Industrial" clearly placed on the following Assessor Parcels:

0090-100-080, 280, 290, 300, 310.
0090-180-030, 040, 050, 060, 070, 120, 130, 150, 170, 200.
0090-190-090, 100, 210, 220.
0090-210-010.
0090-220- 020, 050,150, 160, 170, 180, 200, 210, 270.

There are land use designation alternatives being discussed that would change the land use designation on District's property from Water Dependent Industrial to Agricultural. The District has made a considerable investment in the property and such a change in the land use designation and the resultant down zoning will have a near term impact of a several million dollar loss to the District with an incalculable long term loss, also in the millions of dollars.

It is hoped that the information herein will assist you in making your recommendations on land use designations for the Collinsville area and the District thanks you for your consideration of its position on the issues.

Harry Englebright
Department of Resource Management, Planning Services Division
County of Solano
August 1, 2007

Page 3 of 3

SMUD is looking forward to working in concert with the Solano County Planning Department and the Solano County Board of Supervisors in the development of the County's General Plan for the Montezuma Hills area and the development of District's property to the mutual benefit of the community and SMUD.

Please direct any questions or requests for additional information to:

URS Corp
c/o Keith D. Shorey
8312 Mercer Way
Fair Oaks, CA 95628
Telephone: (916) 716-2300
E-mail: keith124@comcast.net

Sincerely,



Blandon Granger
Property Administrator
Sacramento Municipal Utility District

cc: Terry Curtola, Chairperson, Solano County General Plan Citizens Advisory Committee
Sandy Person, Collinsville Sub-Committee, Solano County General Plan CAC
Dick Wallace, SMUD
Keith Shorey, URS
Dennis Dudzik, URS

Pages 1 and 2: Regarding Impact on SMUD Properties

The commenter states that the County has ignored SMUD's previously stated intent in a letter dated August 1, 2007 to consider potential developments on properties it owns in the Collinsville/Montezuma Hills special study area for uses other than wind-powered generation. The commenter further states that the County's proposal to change the properties in question from Water Dependent Industrial and Water Dependent Industrial Reserve to agriculture creates a direct and significant effect on the future resource development potential of the District's properties. The commenter further states that the proposed land use changes appear to be inconsistent with the County's responsibility under the California Environmental Quality Act (CEQA) to communicate proposed changes and respond to comments from public agencies and affected property owners.

The commenter does not specifically state what resource development potential is being significantly affected with the proposed land use change and how this change would create a significant and adverse environmental change that must be evaluated under CEQA. Further, the commenter is mistaken in stating that the County ignored SMUD's desire to consider the development potential of its properties. In fact, the Solano County Board of Supervisors conducted an extensive series of duly noticed public hearings on July 1, 8, 18, 21, and 29, 2008 to accept and consider public testimony on proposed changes to the proposed 2008 General Plan, including the proposed Land Use Diagram (Figure LU-1) and related policies. Finally, the County's obligation under CEQA to respond to comments referred to by the commenter is an obligation to provide written responses to comments on the Draft EIR for the 2008 Solano County General Plan, not written responses to comments on the General Plan itself (see section 15088 of the CEQA Guidelines).

LETTER 64

JAMES DEKLOE

Soloano Community College

July 28, 2008

SOLANO COMMUNITY COLLEGE

Jim Louie
Planner
Solano County Department of Resource Management
675 Texas St., Ste. 5500
Fairfield, CA 94533

Comments on the Final Environmental Impact Report for the Solano County
General Plan Update
State Clearing House # 2007122069

July 25, 2008

Mr. Louie,

I am very disappointed and shocked that the consultant who prepared responses to my comments on the Solano County General Plan update Draft Environmental Impact Report sidestepped virtually every question and issue that I brought up and dismissed them with hand-waving and rhetorical legerdemain. And frankly, looking over the responses to comments from other letters, he or she sidestepped most substantial issues in this very flawed document. The Final EIR does not fix the huge gaps in the Draft EIR, and therefore the document should be withdrawn, corrected, and recirculated.

Again, since I teach biology and have taught biology for three decades, I will mainly focus my comments on the Biological Resources element of the Draft General Plan. The Biological Element in the original Draft EIR document was so superficial that I considered the document to not really have a Biological Element. I was hoping that this would be remedied in the Final EIR; the consultant did not even attempt a remedy but instead summarily dismissed every comment.

Again, the claim that the County can convert over 30,000 acres (or 47 square miles), an area almost the size of the City and County of San Francisco's 49 square miles, from natural to residential, commercial, and industrial use without a significant impact on wildlife seems implausible. Certainly the burden of proof that the mitigation measures can reduce the impacts to insignificant lies with this EIR – and it fails.

Again, I have been examining Draft EIR's for a decade and a half and I have not seen one this superficial for minor projects. I believe that the public deserves a substantial analysis for a General Plan – the “planning constitution” that often govern for several decades and that oversees all projects with potentials for significantly altering the environment. The public deserves better than this.

I was happy to see that my comments about the inadequacy of this element were echoed by other individuals and agencies including US Fish and Game, the City of

Fairfield, the California Oak Foundation, Collinsville Coalition for the Protection of the Environment, the Center for Biological Diversity, and others. The letter from Robin Leong of the National Audubon Society seems to have been omitted, although based on the responses it seems as if the Audubon Society has expressed similar thoughts.

The Final EIR dismissed my comments about the inadequacy of the Biological Resources element; but it is harder to dismiss such a large chorus of agencies, groups, and individuals.

Section 4.6 Biological Resources

The complete failure of the Biological Resources element

The Biological Resources elements of the Final Environmental Impact Report should have identified the biological resources of Solano County, analyzed the potential impacts of the human activities resulting from the proposed changes in land use in the General Plan, develop mitigation measures that would reduce the impact of those activities, and then honestly assess how the proposed measures actually do mitigate those impacts. The Final EIR document fails in every one of these four goals.

The Final EIR fails to identify the biological resources of Solano County

My major point in my comments on the Draft EIR was that the EIR did not contain an analysis of the biological resources of Solano County – the Final EIR again sidestepped this omission. The document vaguely referenced the County Habitat Conservation Plan and did not give a single description of the methodology that they used or wetlands delineations or wildlife or plant surveys.

When I brought this up in my comments:

Where is the description of how the consultants writing the Draft Environmental Impact Report got their numbers and reached their conclusions? Usually Draft EIR's have an appendix that reports and explains the results of plant community field surveys, raptor studies, wetland analysis, surveys for vernal pools and searches for the (often listed) species that they contain, wetland delineation surveys, surveys for red legged frogs and other amphibians, etc., etc. I cannot find an appendix.

Apparently this Draft Environmental Impact Report uses the data collected by the developers of the Habitat Conservation Plan – but it did not include those data in an appendix. I have been following the HCP process and there is significant contention about how well the proposed HCP accomplishes its stated goal and how well environmental impact assessments of that document address the HCP's potential impact. No discussion of those controversies occurs in this document.

There is no primary data in this document. CEQA encourages and requires public involvement in the discussion of conclusions and suggested mitigation measures – but this cannot be done. As far as I can tell, the document is solely based on the HCP but does not even give a cursory discussion of which field studies the HCP drafters used to reach their conclusions and proposal. At the very least, if the HCP's data formed the basis of this Element of the DEIR, then it should have been included as an appendix for the public and decision making officials to see.

The final EIR answered with:

51-7 The DEIR relies on the considerable background information on habitats within the county developed as part of the preparation of the Solano Multi-Species Habitat Conservation Plan (Solano HCP). Although the County has chosen not to participate in the Solano HCP at this time, this effort has provided considerable information on the county's resources, as well as analyzed the efforts/acreages needed to conserve and recover the various communities in the county. In addition to being presented in the Solano HCP, the data and the methodology for collecting the data, used to determine the DEIR conclusions regarding biological resources, is presented in the Biological Resources background report for the project (Solano County 2006). The Solano HCP is also available for public review at Solano County Water Agency.

I acknowledge that they did make some minor changes in wording based on my criticism as reported in the response to Comment 51-11:

Participants in the Solano HCP are Solano County Water Agency (SCWA), the City of Vacaville, the City of Fairfield, the City of Suisun City, the City of Vallejo, Solano Irrigation District (SID), Maine Prairie Water District (MPWD), the City of Rio Vista, the City of Dixon, Reclamation District 2068, Vallejo Sanitation and Flood Control District, and Fairfield-Suisun Sewer District. Although the County is not an applicant, SCWA gave the County permission to use the data developed for the Solano HCP toward the development of the 2008 Draft General Plan. The Biological Resources Background Report prepared for the 2008 Draft General Plan (Solano County 2006) ~~was an adaptation of~~ is based on the Solano HCP, [added is publicly available at the Solano County Department of Resource Management, and is hereby incorporated by reference.] Similarly, ~~†The following description summary of existing conditions within the county is based in large part on the information presented in the Solano HCP [added and Biological Resources Background Report]~~

This wording change tries to lessen my criticism, but it does not.

My criticism is a major criticism – that the Biological Resources section of the Draft EIR used a mysterious methodology to assess the biological resources of the County – and the response entirely sidesteps it. The document admits that “*The DEIR relies [emphasis mine] on the considerable background information on habitats within the county developed as part of the preparation of the Solano Multi-Species Habitat Conservation Plan (Solano HCP)*” and then essentially says, “go look it up.” First, in this statement the Final EIR admits that the Solano HCP is the key document that the Draft EIR “relied on” – this means that defects in the current HCP become defects in the EIR. Second, it should not be the public’s responsibility to go here and there to track key documents – if the document is a cornerstone of the Draft EIR, then it should have been included on the CD-ROM. (It doesn’t help the public now to change to wording to is publicly available at the Solano County Department of Resource Management, and is hereby incorporated by reference now.) Without this analysis the Draft EIR was incomplete and the Final EIR remains incomplete. Third, it is not clear what part of the Solano HCP the Draft EIR and now the Final EIR relies upon; did they accept some data and reject others? Fourth, the Solano HCP is still in preparation and the data is under intense scrutiny and debate. (For one example, see the criticism at http://www.scwa2.com/hcp/Final%20Draft%202.1/Comments/Solano%20CSWG%202_1%20Draft%20comments%20April%202006.pdf)

I looked at the Solano HCP during the preparation of my comments and I had criticisms of its approach similar to those listed in the URL above. But without knowing which sections the consultants preparing the Draft EIR used, I could not tell where they might or might not have gone wrong – there is nothing to critique. That criticism stands.

The public needs to have enough information to assess the adequacy of the analysis; that did not occur here.

In short, since the Biological Resources section relied on a Solano HCP to which they only vaguely referred, the Draft EIR remains incomplete. Essentially there is no Biological Resources section here.

The Final EIR strengthens my case in Master Response K:

Master Response K

Several commenters suggested that that a wide range of potential environmental impacts on biological resources would be mitigated if only the County would participate in the Solano Multi-Species Habitat Conservation Plan (Solano HCP), which is in preparation. Solano County Water Agency (SCWA) is preparing the Solano HCP for portions of Solano County. In March 1999, the U.S. Fish and Wildlife Service (USFWS), in accordance with Section 7 of the federal Endangered Species Act (ESA), issued a biological opinion regarding the Solano Project Water Service Contract Renewal between the U.S. Bureau of Reclamation and SCWA. The 25-year contract provides for continued delivery of Solano Project water for agricultural, municipal, and industrial purposes throughout the SCWA service area. SCWA delivers Solano Project water in accordance with contracts with its eight member agencies: the Cities of Vacaville, Fairfield, Suisun City, and Vallejo; Solano Irrigation District (SID); Maine Prairie Water District (MPWD); the University of California, Davis (UC Davis); and the California Medical Facility/California State Prison, Vacaville. The County does not receive water from the Solano Project and therefore is not required to participate in the Solano HCP. When preparation of the Solano HCP began, SCWA provided the opportunity for other agencies to participate. At that time the County chose not to participate in the Solano HCP out of concern that it could have adverse impacts on the agricultural community. However, the County has monitored the preparation of the Solano HCP and may choose to join the program at a later date. Once USFWS has approved the Solano HCP, USFWS will be able to issue incidental take permits to the participating agencies to cover the activities listed in the Solano HCP, including local development projects. As a result, regulatory processes would be streamlined. Project proponents would be able to submit individual applications directly to local agencies for incidental take permits, rather than also needing to obtain incidental take permits directly from USFWS. Therefore, whether the County participates in the Solano HCP or not, the mitigation proposed for impacts on biological resources that are subject to the jurisdiction of USFWS would be the same.

The Final EIR argues two opposite arguments at the same time:

1. Solano County is not committed to following the Solano Habitat Conservation Plan
2. The HCP will have an effect because “regulatory processes would be streamlined

I’m not sure that the writers of the Final EIR recognized that they submarined their own argument here to exactly prove the contrary. The presence of a Solano HCP would have the negative effect (from the point of view of the environment) of streamlining projects at the same time that the County does not have a commitment to the positive effects (large scale planning, multispecies approach, long time scales) of a Solano HCP. For wildlife this is the worst of both possible worlds; a lose-lose situation. Wildlife loses the benefits of an HCP but has to endure the negatives of an HCP.

The Draft EIR acknowledged that there was a potential **conflict** with the Solano HCP.

“IMPACT 4.1-3a

Conflict with an Adopted Habitat Conservation Plan – Preferred Plan. *Buildout of the 2008 Draft General Plan under the Preferred Plan would not conflict with an adopted habitat conservation plan or natural community conservation plan. This impact would be less than significant.”*

And when I asked about this in my comments:

“Where is the detailed description of these potential conflicts? How would these conflicts be less than significant? When most other agencies in the County are following the habitat conservation plan, and Solano County acknowledges that it is not – but does not specifically outline just which elements of the General Plan might be in conflict with the HCP, then this seems like it should be considered a significant impact. Yet the DEIR concludes for the Preferred Plan and the Maximum Plan “ No mitigation beyond the 2008 Draft General Plan policies and programs is required.”

This is a pretty serious issue, that the actions of the County’s General Plan might undermine the key environmental planning strategy that will govern Solano County’s compliance with State and Federal wildlife laws for decades. And when I brought it up in my comments, the final EIR response merely says,

51-14 Please refer to Master Response K, “Solano HCP,” in Chapter 2 of this FEIR.

I have reproduced Master Response K above. It is mysterious how Master Response K even addresses this issue.

The Final EIR cannot have it both ways. The EIR cannot depend upon the Solano HCP on one hand and then ignore it when convenient. If the analysis is in the Solano HCP, then that analysis should have been reported in the EIR. If the Solano HCP will have an effect, then the Final EIR should have called upon the County to commit to participating in it. Or the County should have produced an independent document.

The Final EIR fails to analyze the potential impacts of the human activities resulting from the proposed changes in land use in the General Plan

The most important major omission in the Final EIR is to assess the impact of development under the General Plan on wildlife corridors. This point was made by the Center for Biological Diversity:

“The DEIR relies upon land as a proxy for impacts to species. The DEIR fails to adequately analyze the impacts to species, instead relying upon the total amount of habitat used by the rare and sensitive wildlife species. The analysis of direct impacts to the species themselves from the Project and how those impacts are fully mitigated is not adequately analyzed. The DEIR fails to adequately analyze and quantify the impacts to wildlife corridors in the project area. Habitat corridors are most effective when adjacent uses are compatible with suitable wildlife habitat. (Beier and Loe. 1992; Perault and Lomolino. 2000). Urbanization has continually proven to be an incompatible use for wildlife habitat. Lower intensity use such as timber recreation or agriculture would be a more compatible use. The project will result in a highly urbanized use that will significantly impact the wildlife habitat potential of the site. Intrusion by development into wildlife corridors impedes the migration of species within the corridor and increases the adverse “edge effects” of fragmented habitat.”

The Fish and Wildlife Service also showed great concern about the impact on Wildlife corridors in comment 1-6 and 1-7. The Final EIR neglects these concerns in their responses:

1-6 The comment is primarily expressing concern for continued loss and reduction of terrestrial movement corridors and does not provide specific comments with respect to the analysis in the DEIR or the 2008 Draft General Plan. The comment is noted. No further response is required.

Nonsense. The question is what measures are going to be taken to reduce or avoid the loss of wildlife corridors. This concern was sidestepped here.

Likewise in

1-7 The commenter is addressing specific concerns related to wildlife movement and isolation of the California red-legged frog and Callippe silverspot butterfly in the western hills of the county. Interstate 80 (I-80) and State Route (SR) 12 already create barriers for dispersal of the species and have already fragmented its habitat. I-80 and the SR 12 widening are beyond the County's control, as these are federal and state highways, respectively, and issues related to endangered species movement related to ongoing or future projects on these highways need to be addressed in the environmental review and permitting of these projects led by other responsible agencies.

Nonsense. The areas of concern brought up by the USFWS were areas in unincorporated county – the areas directly affected by a County General Plan.

They did throw them an unspecific bone by including:

1-8 To assist in highlighting the commenter's concerns and better address County environmental review for local actions, as shown in Chapter 4 of this FEIR, Exhibit 4.6-2, "Priority Habitat Areas," on page 4.6-33 of the DEIR has been modified to add a corridor designation linking the hills south of I-80 through the hills between I-80 and SR 12 to the area north of SR 12.

but again, there is no discussion of particulars.

The Final EIR fails to develop specific mitigation measures that would reduce the impact of those activities

The deferred analysis required by delaying mitigation plans that runs rampant through this document violates the spirit and the letter of the California Environmental Quality Act. I brought this up in my comments on the Draft Environmental Impact Report, and again, the Final EIR failed to address this criticism; they did not develop actual mitigation plans. In fact, they reinforced the deferred analysis in comment 51-12:

51-12 Please refer to Response to Comment 51-10. The DEIR does address biological issues on an ecosystem level, and not merely on a species-by-species approach. The following impacts and mitigation measures illustrate that approach:

- ▶ Impact 4.6-2a and 4.6-2b, “Loss of Value of Upland Grassland, Oak Woodland, Oak Savanna, and Scrub/Chaparral Habitats”; and Mitigation Measure 4.6-2a and 4.6-2b, “Require a Habitat Inventory and Mitigation and Management Plans, and Specify a Replacement Ratio for Native Trees and Shrubs”
- ▶ Impact 4.6-3a and 4.6-3b, “Loss or Reduction in Habitat Values of Valley Floor and Vernal Pool Grassland Habitats”; and Mitigation Measure 4.6-3a and 4.6-3b, “Require a Habitat Inventory, Buffer Zones, and Appropriate Avoidance and Compensatory Measures to Mitigate Habitat Loss”
- ▶ Impact 4.6-4a and 4.6-4b, “Potential for Direct and Indirect Impacts on Riparian, Stream, and Open-Water Habitats” and Mitigation Measure 4.6-4a and 4.6-4b, “Require an Inventory for Special-Status Species and Uncommon Habitats, and Appropriate Mitigation of Impacts on Valley Elderberry Longhorn Beetle, Salmonid, and Other Habitats”
- ▶ Impact 4.6-5a and 4.6-5b, “Potential for Direct and Indirect Impacts on Seasonal Wetlands,” and Mitigation Measure 4.6-5a and 4.6-5b, “Require Surveys for Seasonal Wetlands and Replacement at a Minimum 2:1 Ratio”
- ▶ Impact 4.6-6a and 4.6-6b, “Potential Direct and Indirect Impacts on Marsh and Tidal Flat Habitat,” and Mitigation Measure 4.6-6a and 4.6-6b, “Require Surveys for Wetlands and Special-Status Species, Develop an Avoidance and Mitigation Plan, and Replace Affected Habitats at a 2:1 Ratio”

Most of the comments here are placed in future tense: require a habitat inventory, require a mitigation plan, require a management plan, require surveys, develop an avoidance and mitigation plan, etc. .

In their comments (Letter 1), the US Fish and Wildlife Service says,

“we recommend that surveys or inventories for the California tiger salamander, the Calippe silverspot butterfly, the California red-legged frog, the listed vernal pool crustaceans, listed plants, and other listed species... be submitted to our agencies...”

to which Comment 1-3 says,

Mitigation Measures 4.6-3a, 4.6-4a, and 4.6-6 require all future projects to conduct, as a condition of project approval, appropriately timed biological resources inventories designed to assess the presence of wetlands, other unique edaphic substrates, and special-status species and uncommon natural habitats. The commenter recommends that surveys for listed species follow standard U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (DFG) protocols and that survey proposals be submitted to both agencies for review and approval prior to implementation. Many of the approved USFWS and DFG protocols for species surveys require prior coordination and approval from the applicable regulatory agencies.

Again, this is all future tense.

While there is some additional planning that is more appropriate at the project level environmental analysis, until these surveys, mitigation plans, management plans, avoidance plans, etc. are in place, these significant impacts cannot be counted as “mitigated.” Impacts must be mitigated with a plan; they cannot be mitigated by planning to do a plan. Again, this deferred analysis is explicitly prohibited by CEQA case law and cannot mitigate as well as a well developed Habitat Conservation Plan.

I was not the only commentor to conclude that the Draft EIR used the old fashioned species-by-species approach and deferred mitigation measures. This thought was echoed in other letters.

The City of Fairfield concluded in Comment 11-20:

“The mitigation measures addressing habitat rely on a fragmentary and project-specific approach, with each project developing an individual analysis and mitigation plan. The Draft EIR should instead discuss mechanisms for a more comprehensive and holistic approach.”

and in comment 11-21 suggest:

Participation in the HCP would allow the county to fully address the comment above.

The Final EIR dismissed them with their stock reference to the section that does not address it:

11-21 The comment is noted. Please refer to Master Response K, “Solano HCP,” in Chapter 2 of this FEIR.

The Deferred analysis and mitigation cannot be dismissed as the Final EIR tries to do in their Master Response G. They try to make a distinction between this situation and the Sunstrom case that ruled about the illegality of deferring plans, but the comparison is there. This is a case where virtually all of the specifics are deferred. The public, and the agencies, I’m sure would have more confidence if the County just agreed to place themselves in the Solano Habitat Conservation Plan. Without it this is handwaving.

Conclusion

The Biological Resources elements of the Final Environmental Impact Report should have identified the biological resources of Solano County, analyzed the potential impacts of the human activities resulting from the proposed changes in land use in the General Plan, develop mitigation measures that would reduce the impact of those activities, and then honestly assess how the proposed measures actually do mitigate those impacts. The Final EIR document fails in every one of these four goals.

The Final EIR dismisses most comments that show legitimate concern about the environmental impacts allowed by or encouraged by this important document. I have focused on the DEIRs analysis of Biological Resources element where the problems are especially acute. But it is striking that similar sidestepping occurs in letter after letter on the discussion of virtually every element.

For the Biological Resources element, I conclude that it fails so completely that the Final EIR really is left without a Biological Resources element.

The Final EIR did not fix the problems with the Draft EIR and therefore it minimizes the description of the impacts of the development proposed in the General Plan, fails to disclose the methodology used to reach these conclusions, defers the details of mitigation measures, and then concludes that there are no significant impacts.

Again, when you take a step back to consider the conclusion that an area the size of the City of San Francisco can be converted to urban uses without a single significant impact on wildlife, it seems implausible. This seems even less plausible when you understand just how rare and important the habitat being converted currently is to wildlife. And every conversion can be mitigated by some plan to be determined later?

While I recognize that in the tiered approach to environmental impact analysis encouraged by the California Environmental Policy Act subsequent project level or site-specific EIRs will demand additional details, it is here at broad-scale covered by the program EIR where true and substantial mitigation methods can be planned. This is the philosophy behind the development of Habitat Conservation Plans, that mitigation measures that plan over the largest region possible and that plan over the longest time frame possible will have the best chance to truly mitigate impacts. Yet the Draft EIR that accompanies this General Plan does not take advantage of this possibility; this document defers analysis and specific decisions to the project level EIRs. I believe that this is illegal; at the very least it is unwise.

I am especially disappointed that the Final Environmental Impact Report continues to fail to take advantage of existence of the nearly completed Habitat Conservation Plan for the County. To the contrary, the existence of this document severely compromised the quality of the Draft EIR; because of the existence of the HCP, the Draft EIR used its findings but did not disclose those findings to the public or decision makers reading the Draft EIR. The Draft EIR included no results of field studies, no wildlife surveys, and no primary data; these data likely would have been prepared and included in a document that had been prepared for a County that did not have a HCP in preparation.

For this document to be complete, it should have included the data from the HCP. It should have included a discussion of the rationale that flowed from those data. It should have included completed mitigation measures for each habitat that will be impacted, rather than saying, “a mitigation plan shall be produced.” It should have had more policies and encouraged development to avoid the sensitive areas rather than depending upon mitigation measures. And it should have honestly admitted when the mitigation measures would not be enough and a significant environmental impact is unavoidable.

The conclusion that the Environmental Impact Report insufficiently analyzes and mitigates significant environmental impacts is echoed in the Final EIR by commentletter after comment letter from federal, state, and local agencies, non-profit groups, and individuals. And sometimes when there is so much smoke there is a fire.

Thank you for the opportunity to comment,

James D. DeKloe
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General:

While the letter is provided on Solano Community College letterhead and the commenter describes himself as a biology teacher at the College, it is not clear from the content of the letter whether the writer is commenting on behalf of the College or just himself. If the comments are made on behalf of the College, the County is a bit puzzled as to why the College waited until well after the close of the public comment period on the DEIR to submit such concerns. Additionally, it is difficult to discern how the concerns expressed in the letter are germane to the scope of the College's statutory responsibility. (State CEQA Guidelines, Section 15204[d].) Nonetheless, the County has made a good faith effort below to respond to these comments, despite their late submission.

Pages 2 and 3: Regarding Failure of the EIR to Contain a Biological Resources Element

The commenter questions that the Draft and Final EIR's contained a biological resources element, that the biological resource element fails to identify the biological resources of Solano County, and objects to relying solely on the Solano HCP. The commenter further questions the data collected for the Solano HCP. However, it is because of the HCP process there is more data available concerning biological resources in the County than would have been gathered for the 2008 Draft General Plan update process alone.

In the DEIR, under the methodology section (Section 4.63), it specifically states that existing conditions were determined using the countywide vegetation data collected for the Solano HCP. This is a very specific statement as to which sections of the Solano HCP were used to conduct the analysis. The results of the vegetation mapping are included as a figure (Exhibit 4.6-1) in the draft EIR and the methodology used to collect this data is presented in the Methodology Section (Section 6.2.2) in the Biological Resources Background Report, as well as being detailed in Section 3.0 of the Draft Version 2.2 of the Solano HCP. The methodology section of the DEIR (page 4.6-28 Section 4.6.3) states that it uses the information collected for the Solano HCP on the distribution of special-status species as well as information from the CNDDDB and CNPS's *Inventory of Rare and Endangered Vascular Plants of California*. The data on the distribution of special-status species from the Solano HCP can be found in the species accounts (Appendix B) of that document.

In general there is confusion as to how the data and conservation analyses from the Solano HCP were used in the EIR versus the preparation of the 2008 Draft General Plan. The Solano HCP conducted a detailed conservation analysis (Section 4.0 in the Draft Version 2.2 of the Solano HCP) to identify and prioritize areas with high conservation value. Section 4.0 of the Solano HCP clearly outlines the key elements or data used to define the conservation areas. The County used this analysis during the preparation of the 2008 Draft General Plan to identify the boundaries of the Resource Conservation Overlay.

The DEIR does not base results on analyses hidden in the Solano HCP; the methodology section of the DEIR clearly states that the data used from the Solano HCP include the data on the distribution of special-status species and the vegetation mapping data. The vegetation data is presented in the DEIR as Exhibit 4.6-1 and the methodology for collecting this data is detailed in the Methodology Section (Section 6.2.2) in the Biological Resources Background Report as well as in Section 3.0 of the Draft Version 2.2 of the Solano HCP. The DEIR also specifically states how this data is used.

Section 4.6.3 page 4.6-28 of the DEIR states, “The effects of implementation of the 2008 Draft General Plan were compared to environmental baseline conditions (i.e., existing conditions) to determine impacts. Existing conditions were determined using the countywide vegetation data collected for the Solano HCP (Exhibit 4.6-1).”

Page 1, Paragraph 4: Regarding Superficial EIR

Although the commenter asserts that in the 15 years that he has been examining Draft EIRs, he has “not seen one as superficial for minor projects,” the County notes that its team of consultants, including its primary consultant, EDAW, includes some of the top planning and environmental consultants in the state with vast experience preparing general plans and general plan EIRs throughout California. County staff and its legal counsel have also been involved in the preparation and review of numerous EIRs and find the 2008 Draft General Plan to be particularly thorough, even in comparison to EIRs for other large projects.

Page 3 Paragraphs 2 and 3: Regarding Incorporation by Reference

The commenter objects that the Solano HCP is incorporated into the FEIR by reference, rather than as an appendix to the EIR. CEQA does not require the Solano HCP to be included as an appendix to the EIR, as opposed to being incorporated by reference to the EIR. “Incorporation by reference is a necessary device for reducing the size of EIRs.” (Discussion following State CEQA Guidelines, Section 15150.) Thus, an EIR may incorporate any portion of any relevant documents that are a matter of public record and generally available to the public. The incorporated language shall be considered to be set forth fully in the incorporating environmental document. (State CEQA Guidelines, Section 15150.) The County has made available the HCP reference materials at the County’s offices during normal business hours as required by CEQA. (Ibid.)

Page 4, Last Paragraph:

The commenter believes the County has presented an inconsistent position that will harm the environment because 1) the County has not committed to the HCP, and 2) participation in the HCP will streamline incidental take permit review under the Federal Endangered Species Act, which, according to the commenter, will have negative environmental consequences. The commenter is directed to the last sentence of the quoted paragraph from Master Response K, “Solano HCP,” which states: “whether the County participates in the Solano HCP or not, the mitigation proposed for impacts on biological resources that are subject to the jurisdiction of USFWS would be the same” (italics added). If the commenter is correct that streamlined incidental take permit review is harmful to the environment, then the County’s proposed mitigation for impacts to biological resources subject to USFWS jurisdiction, which is equivalent to that under the HCP, would be environmentally advantageous because project applicants would not be able to take advantage of the HCP’s streamlined review.

Page 5, Top of Page:

The threshold question for impact 4.1-3a (and 4.1-3b) is whether buildout of the 2008 Draft General Plan would conflict with an “adopted habitat conservation plan or natural community plan.” (DEIR, p. 4.1-16, italics added.) As the DEIR explained in the paragraph following the impact quoted by the commenter, the Solano HCP has not yet been adopted. Therefore, the Project would not conflict with an adopted HCP, although the County believes its policies and programs proposed in the 2008 Draft General Plan are largely consistent with the draft HCP.

Pages 6 to 8: Regarding “Deferred Mitigation”

The commenter alleges that the DEIR impermissibly defers mitigation for biological resources impacts. Please refer to Master Response D, “Deferred Mitigation” in Chapter 2 of the FEIR, which explains the distinction between permissible and impermissible mitigation deferral under CEQA. As explained in Master Response D:

as a general matter, a lead agency must not defer the formulation of mitigation until after project approval (State CEQA Guidelines Section 15126.4[a][1][B]). The state courts have developed legal principles regarding the extent to which an agency can rely on a mitigation measure that defers some amount of environmental problem-solving until after project approval. In particular, deferral is permissible where the adopted mitigation measure commits the agency to a realistic performance standard or criterion that will ensure the mitigation of the significant effect, or lists alternative means of mitigating an impact that must be considered, analyzed, and possibly adopted in the future.

(See Section 15126.4[a][1][B] of the State CEQA Guidelines, which states that “measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” See also the following court decisions:

- ▶ *Endangered Habitats League v. County of Orange* [2005] 131 Cal.App.4th 777 [*Endangered Habitats League*], 793–794, which states that deferral is permissible where the agency commits itself to mitigation and either [1] adopts a performance standards or [2] makes further approvals contingent on finding a way to meet possibly adopted in the future;
- ▶ *Riverwatch v. County of San Diego* [1999] 76 Cal.App.4th 1428, 1448–1450, which states that a deferred approach may be appropriate where it is not reasonably practical or feasible to provide a more complete analysis before approval and the EIR otherwise provides adequate information of the project’s impacts;
- ▶ *Sacramento Old City Assn. v. City Council* [1991] 229 Cal.App.3d 1011 [*Sacramento Old City Assn.*], 1029–1029; and
- ▶ *Defend the Bay v. City of Irvine* [2004] 119 Cal.App.4th 1261, 1275.)

The use of performance standards is particularly appropriate in connection with “program EIRs,” such as the DEIR for the 2008 Draft General Plan, that will necessarily be followed by additional, project-level environmental review.

(FEIR, pp. 2-10 through 2-11.)

For example, in *Rio Vista Farm Bureau Center*, which involved a program EIR, the Court of Appeal upheld mitigation measures adopted as policies within a “hazardous waste management plan.” The plan projected the county’s anticipated hazardous waste stream, and concluded that the county would likely experience a capacity shortfall by the year 2000. The plan identified a number of possible strategies for dealing with the shortfall, and adopted criteria for siting future waste treatment facilities. The petitioners argued that the plan policies functioning as mitigation measures were vague and inconclusive, reflecting the county’s intent to adopt more specific mitigation measures when individual projects were proposed in the future. The court disagreed, explaining that the EIR’s discussion of mitigation measures was adequate “given the broad, nebulous scope of the project under evaluation.” (*Id.*, at p. 376.) The description of mitigation measures was necessarily generic, as the specificity of an EIR’s discussion of mitigation measures should be proportionate to the specificity of the underlying project. For those impacts not susceptible to precise mitigation measures in connection with the approval of the waste

management plan, it was sufficient for the county to commit to making the advancement of future site-specific project approvals contingent on ensuring that those projects meet specific performance criteria. The inclusion of such criteria within the plan itself was a sufficient basis for concluding that the impacts of later projects would be mitigated.

Consistent with the CEQA requirements set forth above, the mitigation measures required by the 2008 Draft General Plan EIR clearly adopt performance standards and make further approvals contingent on finding a way to meet those standards. (*Endangered Habitats League, supra*, 131 Cal.App.4th at pp. 793-794).

For instance, Mitigation Measure 4.6-1a (and 4.6-1b) would require that to mitigate permanent impacts of future projects on Swainson's hawk and burrowing owl foraging habitat in agricultural areas, the County shall require foraging habitat to be preserved at a 1:1 mitigation ratio, where the foraging habitat preserved is of equal or better quality than the foraging habitat affected. All such habitat preserves shall have a resource management plan prepared by one or more qualified persons that, *at a minimum*, shall include the following specific performance standards:

- ▶ specify control measures and programs for invasive exotic and noxious weeds, to be implemented in perpetuity and include annual surveys to visually assess and identify weed infestations and identify annual control measures;
- ▶ specify control measures for invasive and destructive nonnative animal species, to be implemented in perpetuity and include annual surveys to visually assess and identify new infestations and appropriate control measures;
- ▶ create a management endowment or other permanent funding mechanism that is acceptable to the long-term management entity and sufficient to manage the property in perpetuity, consistent with the approved management plan;
- ▶ provide for replacement of nesting habitat for the Swainson's hawk distributed throughout the agricultural areas of Solano County;
- ▶ specify maintenance requirements and responsibilities for implementation, long-term ownership and/or management responsibility, annual reporting requirements, and a funding mechanism; and
- ▶ provide for permanent preservation under a conservation easement that prohibits all of the following:
 - plantings of orchards and/or vineyards, except in designed farmstead areas;
 - cultivation of perennial vegetable crops, rice, and cotton;
 - commercial feedlots (defined as any open or enclosed areas where domestic livestock owned by other than the grantor are grouped together for intensive feeding purposes);
 - horticultural specialties, including sod, nursery stock, ornamental shrubs, ornamental trees, and flowers; commercial greenhouses or plant nurseries;
 - commercial aquaculture of aquatic plants and animals and their byproducts; and
 - commercial wind energy development.

The mitigation measure also sets forth additional performance criteria to protect burrowing owl habitat (see FEIR p. 4-11 through 4-12 for the text of the additional criteria). Likewise, each of the remaining mitigation measures included in the Biological Resources chapter requires the adherence to specific performance criteria. (See FEIR pp. 4-12 through 4-27 for a list of the mitigation measures). Therefore, the mitigation measures proposed in the EIR do not impermissibly defer the formulation of mitigation measures. (See *Endangered Habitats League, supra*, 131 Cal.App.4th at pp. 793-794.)

Contrary to the commenter's suggestions, further specificity than the performance criteria included in the EIR's proposed mitigation measures would be inadvisable because it might not allow the County and project applicants sufficient flexibility to tailor their mitigation strategies to the unique environmental characteristics associated with the specific development projects under review. By including the performance criteria set forth in the mitigation measures for the 2008 Draft General Plan, the County can ensure that projects under the 2008 Draft General Plan fulfill certain minimum requirements (e.g., the achievement of no net loss to vernal pools and valley floor grassland habitats), while still providing the flexibility needed to address site-specific environmental contingencies of future projects.

The case of *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296 (*Sundstrom*), cited by the commenter, is distinguishable. As explained in Master Response G, "Deferred Mitigation":

In that case, the Court of Appeal set aside a county's approval of a conditional use permit for the construction of a sewage treatment plant. Among the conditions of approval were directions to the project applicant to prepare a hydrological study evaluating the project's potential environmental effects and proposing mitigation measures that would then be implemented. The court held that the county violated CEQA in approving the project based on a negative declaration. The court reasoned that the deferral of the environmental assessment until after project approval violated CEQA's policies that impacts must be identified before a project's momentum eliminates or reduces the agency's ability to change its course of action. (*Sundstrom*, pages 307–308.)

As may be clear from the description of that case, there are important distinctions between that case and Solano County's process for preparing the 2008 Draft General Plan. First, the county in *Sundstrom* prepared a negative declaration for the wastewater treatment project, meaning that the county had determined there would be no significant effects on the environment, even before the required studies were performed. Solano County, however, has acknowledged several potentially significant environmental impacts of the 2008 Draft General Plan . . . and in the DEIR, the County does not minimize or ignore these impacts in reliance on future studies.

Further, the county in *Sundstrom* approved the project without so much as considering or addressing any mitigation measures for the project. In contrast, here, Solano County has set forth numerous mitigation measures, as well as 2008 Draft General Plan policies and programs designed to mitigate the plan's environmental consequences. As noted, where the mitigation measures, policies, or programs require future action, performance standards are included to ensure effectiveness of the mitigation.

(FEIR, pp. 2-12 through 2-14.)

The fact that the mitigation measures proposed for the 2008 Draft General Plan are often phrased in terms of future action (e.g., require a habitat inventory, etc.) simply reflects the fact that no specific development projects are proposed at this time. Rather, the 2008 Draft General Plan is a

high-level planning document setting forth the types of development that would be permissible through 2030 and establishing goals, policies, and programs to guide such future development. The County has not yet made any site-specific development commitments under the Draft General Plan. Therefore, the precise nature of any future projects under the General Plan remains speculative. However, the inclusion of the specific performance criteria set forth in the proposed mitigation measures would ensure that impacts of later projects would be mitigated. Therefore, the mitigation measures proposed in the EIR are adequate under CEQA. (See *Rio Vista Farm Bureau Center, supra*, 5 Cal.App.4th at pp. 376-377.)

With respect to the commenter's reference to USFWS's comments, the County incorporated USFWS's suggestion that survey protocols be submitted to USFWS and the California Department of Fish and Game for review and approval prior to their implementation. (See FEIR, p. 1-2.)

LETTER 65

DAVID CATES, PRESIDENT

Vallejo Heights Neighborhood Association

July 28, 2008



Vallejo Heights Neighborhood Association
PO Box 4243
Vallejo, CA 94590



July 28, 2008

Jim Louie, Senior Planner
County of Solano Resource Management Department
675 Texas Street, Suite 5500
Fairfield, CA 94533

RE: Final Environmental Impact Report (FEIR) 2008 Draft Solano County General
Plan SCH# 2007122069

Dear Mr. Louie:

The Vallejo Heights Neighborhood Association urges the Solano County Board of Supervisors to reject the proposed General Plan (Plan) and Final Environmental Impact Report (FEIR). We believe the Plan has serious flaws and impacts that the FEIR admits can not be mitigated, and we believe those impacts on our County will be too great.

Solano County has prime agricultural land, a resource that has vastly dwindled in our state and in our region. Locally grown foods are an invaluable resource, but without adequate agricultural land on which to grow crops locally, Solano County's agricultural industry will decline. The Plan proposes to further reduce our agricultural land by more than 21,000 acres. This is, and should be to Board of Supervisors (Board), an unacceptable reduction of agricultural land to allow in the General Plan.

We are also deeply concerned about the impact the Plan will have on traffic. Sales tax measures that would address the current traffic congestion have failed several times. Even without the additional development the Plan would allow, I-80 is already extremely congested. Building more houses will just make that worse as more people commute to jobs in other cities outside the County. And in our current economic climate, a successful attempt to raise taxes is improbable.

The FEIR acknowledges "significant and unavoidable impacts" to the County's air quality. As we all become aware of the significant and destructive impacts of global warming, we question why the County would put forward a Plan that will contribute to poor air quality and resulting global warming.

The Vallejo Heights Neighborhood Association is interested in protecting and improving the quality of life in Solano County and appreciates the opportunity to express our view on the Plan and FEIR.

We are aware that the County's existing Orderly Growth Initiative functions well to prevent needless conversion of agricultural land to urban uses because once agricultural land is paved over for urban uses it will be lost for agricultural production forever. Therefore, we urge the Board to support the extension of the Orderly Growth Initiative for another 20 years in order to protect agricultural land in the County, and reject the proposed Plan and FEIR because the impacts threaten the quality of life for Solano County residents.

Sincerely,

Vallejo Heights Neighborhood Association
David Cates, President

CC:

Kathleen O'Sullivan, VHNA Vice President

Valerie Duda, VHNA Treasurer

Patricia Gatz, VHNA Secretary

Bob Weir, VHNA Board Member at Large

Katy Miessner, VHNA Board Member at Large

Page 1, Second Paragraph:

The commenter states that the 2008 Draft General Plan proposes to reduce more than 21,000 acres. The commenter also states such an impact such be unacceptable to the Board of supervisors. The commenter should be advised that the Board of Supervisors has made changes to the General Plan land use designations, which will result in fewer impacts to farmland.

Page 1, Third Paragraph:

The commenter states that they are concerned about the impacts that the 2008 Draft General Plan will have on traffic and congestion in the County. As described on page 4.4-42 of the DEIR, the 2008 Draft General Plan's impacts on roadway level of service has been determined to be significant and unavoidable. Per CEQA requirements, the Board of Supervisors must prepare a Statement of Overriding Concerns (SOC) in order to adopt the 2008 Draft General Plan. In preparing the SOC the Board must determine if the benefits of the project as a whole outweigh the significant and unavoidable impacts that may result from the project.

Page 1, Fourth Paragraph:

The commenter states that the FEIR acknowledges that the 2008 Draft General Plan will result in significant and unavoidable impacts to air quality and climate change. The commenter questions why the County would approve a general plan that will contribute to these environmental problems. As stated above, CEQA requirements the Board of Supervisors must prepare a Statement of Overriding Concerns (SOC) in order to adopt the 2008 Draft General Plan. In preparing the SOC the Board must determined if the benefits of the project as a whole outweigh the significant and unavoidable impacts that may result from the project.

Page 2, Second Paragraph:

The commenter urges the Board of Supervisors to support the extension of the Orderly Growth Initiative for an additional 20 years. The comment is noted and will be provided to the Board of Supervisors for their consideration.

LETTER 66

MICHAEL GARABEDIAN

CRITICAL MASS AGRICULTURE

July 29, 2008

Louie, James A.

66

From: Michael Garabedian [mikeg@gvn.net]
Sent: Tuesday, July 29, 2008 8:59 AM
To: CAO-Clerk; Silva, John F.; Kondylis, Barbara R.; Spering, Jim P.; Vasquez, John M.; Reagan, Michael J.; Louie, James A.
Subject: Draft Solano County General Plan & FEIR hearings continuation & extensions of time

To the Clerk and Members of the Solano County Board of Supervisors and Jim Louie, Senior Planner Solano County Department of Resource Management (the seven addresses above):

We request regarding the proposed General Plan and FEIR that the Board of Supervisors (a) continue and reschedule today's hearing for 30 days, and, in the alternative, (b) keep the record open for receipt of written comments for 30 days or as long as the Board determines.

The time frames for reviewing the Plan and FEIR are inadequate for us to be able to comment. For example, the signer below had a previous obligation to travel out of state for a meeting on July 18, and an obligation to be at a day-long state agency hearing on July 21, 2008. We received the FEIR disk from the county at approximately 5:00 p.m. on Thursday July 24. A hearing and comment period through today is wholly inadequate.

We also believe that this time frame is not adequate for the County to carry out its duties to the public, including the necessity of stewarding the lands and resources of Solano County, and obligations under CEQA.

Further, we do not believe that any agricultural community, including Solano County's, receives necessary recognition and consideration, in a hurried process of this nature. We attended certain CAC meetings and find that the current Plan and FEIR process undermines those efforts.

We urge the members of the Board to make the motions necessary to assure these , continuations.

Sincerely,

Michael Garabedian
Critical Mass Agriculture
7143 Gardenvine Ave.
Citrus Heights, California 95621
916-719-7296

Comment Michael Garabedian,
66 Critical Mass Agriculture
Response July 29, 2008

General:

The commenter requests that the Board of Supervisors continue and reschedule the July 29, 2008 Board of Supervisor's hearing for 30 days, and keep the record open for receipt of written comments for 30 days or as long as the Board determines. The commenter also states that he does not believe the length of the public review period of the FEIR was sufficient. It is noted that the commenter attended the July 29, 2008 Board of Supervisors hearing where the Board considered and denied the commenter's request. CEQA requires a 45-day minimum period for the public review of the DEIR and requires that responses to agency comments be provided at least 10 days prior to the certification of the FEIR. The County has met these requirements. As a courtesy, the County has responded to comments received after the close of the commenting period, but prior to the close of the hearing on July 29, 2008.

LETTER 67

KENNETH BROWNE

Sierra Club – Redwood Chapter – Napa-Solano Group

July 29, 2008



SIERRA CLUB

REDWOOD CHAPTER - SOLANO GROUP

P. O. Box 7313, Vallejo, CA 94590



Resource Management

0000032003

AM 7:50 PM 12/14/06

Jim Louie, Senior Planner
County of Solano
Resource Management Department
675 Texas Street, Suite 5500
Fairfield, CA 94533

RE: Final Environmental Impact Report (FEIR) 2008 Draft Solano County General Plan SCH# 2007122069

Dear Mr. Louie:

The Solano Group (SG) of the Sierra Club has reviewed the Final Environmental Impact Report (DEIR) for the 2008 Draft Solano County General Plan update, and the response to our comments of June 2, 2008. There was a short time provided to commenting agencies and general public to submit comments on a document of over 400 pages. However, the Solano Group notes the response to our comments and we submit the following comments.

We will expect Solano County to require a full environmental impact report for any project that has impacts "peculiar to the parcel or to the project" regardless of whether they can be mitigated. One of the purposes of an environmental impact report is to fully document all possible impacts and provide adequate data and information to decision makers.

While we note that under response 27-4 text is added regarding several programs in the California Department of Conservation, the way the paragraph is written implies that the Williamson Act Program, etc is contained in the Division of Mines and Geology, which is inaccurate. The paragraph should read:

California Department of Conservation, Division of Land Resource Protection (contains the Farmland Mapping and Monitoring Program, Williamson Act Program and the California Farmland Conservancy Program).

The response to the request for adequate information on the data for Williamson Act acreages and status of contracts once again limits the type of information that should be provided in the general plan and for decision makers. Also, including a statement that nonrenewal is the preferred method of contract termination is not a just policy preference to be expressed by the County in the EIR. In the landmark Williamson Act contract cancellation court case of Sierra Club v. City of Hayward, 28 Cal.3d 840 in the Court specified that *nonrenewal is the preferred method of contract termination*. Such information should be included in the General Plan and EIR documents.

In your response 27-15 it is stated that "Changing the language of the policy from "encourage" to "require" would require a change to the 2008 Draft General Plan." This change should not be difficult. Indeed, during the Board of Supervisor's hearings on the General Plan County staff has made numerous recommendations for revisions. We are pleased that there has been modification based on Comment 5-6 by DFG. We hope that the County will be diligent in taking action to reduce avian mortality if bat and raptor deaths start increasing.

In general, the responses to comments were unsatisfactory, full of excuses for not providing adequate statistics on Williamson Act contracts and acreages as well as other categories, and an arrogant repetition of foggy statements i.e. "additional information requested by the commenter is not needed to understand and analyze the impacts with implementing the 2008 Draft General Plan at a programmatic level." The proposed Draft General Plan, Draft Environmental Impact Report and Final Environmental Impact Report and responses to comments of concern by agencies, public and private organizations and private individuals falls short of responding adequately to individuals and entities taking time to participate and be involved in the General Plan Update process.

Sincerely,

A handwritten signature in black ink that reads "Kenneth Browne". The signature is written in a cursive, flowing style.

Page 1, Last Paragraph:

As stated in Response to Comment 27-7 of the FEIR, the recommendation for policy preference (i.e., nonrenewal) is not needed to understand and fully analyze potential conflicts with Williamson Act contracts related with implementing the 2008 Draft General Plan. The DEIR established a significance threshold of "... an impact on agricultural resources is considered significant if the proposed project would ... conflict with a Williamson Act contract." Determining or specifying a preferred method for Williamson Act termination in the 2008 Draft General Plan would not change or affect the environmental impact analysis conducted in the DEIR.

In the case identified by the commenter (*Sierra Club v. City of Hayward*, 28 Cal.3d 840), the judge states that "[i]t is inconsistent with the purposes of the [Williamson] act to allow abrupt cancellation if nonrenewal would accomplish the same objective. Therefore, there must be substantial evidence that awaiting the normal termination of the contract would fail to serve the purposes that purport to justify cancellation." In addition, the judge states "[t]he ... nonrenewal procedure is the 'intended and general vehicle for contract termination.'"

However, the decisions made in this case do not *establish* the nonrenewal procedure as the preferred method of contract termination, or as the ordinary contract termination method. The case primarily concludes that the City of Hayward did not make adequate findings or comply with the contract cancellation process in accordance with the requirements and intent of the Williamson Act. Specifically, the judge concludes "that cancellation is inconsistent with the purposes of the [Williamson] act if the objectives to be served by cancellation should have been predicted and served by nonrenewal at an earlier time, or if such objectives can be served by nonrenewal now."

Page 2, Last Paragraph:

The comments are acknowledged; however, the County disagrees with the commenter's assessment that responses to comments made on the DEIR "fall short of responding adequately to individuals and entities taking time to participate and be involved in the General Plan update process." Responses to comments 27-5 through 27-7 of the FEIR fully respond to comments on the DEIR related to the commenter's request for additional information on Williamson Act statistics and acreages.

LETTER 68

JUNE GUIDOTTI

July 29, 2008

RECEIVED
DISTRICT 68

09 JUL 29 11 21 06

SOLANO COUNTY
BOARD OF SUPERVISORS

June Copy

June Guidotti
3703 Scally Road
Suisun California 94585

Receiv

68

JUL 29 2008

Solano County
Board of Supervisors

July 28, 2008

Solano County Board of Supervisors
675 Texas Street
Fairfield, California 94585

Re: July 29, 2008 Public Comment on the Final General Plan & Certification of the land Zoning for the Orderly Growth.

CEQA decision by the California Court of Appeal (Friends of the Kangaroo Rat V. California Department of Corrections (August 18, 2003) Fifth Appellate District Number F040956.) that asserts that the creation of a land Mitigation Bank or a Conservation Easement Program is an invalid Mitigation under CEQA in the proposed Solano County General Plan.

To the Solano County Board of Supervisors:

This is to put you on notice that the Final EIR fails to address the comments and questions raised in my letter dated June 1, 2008 to Jim Louie on the Draft EIR General Plan (SCH32007-122069).

Proposed in the Plan EIR (Agricultural land Zoning overlays, Conservation, Easements Mitigation, wetlands

use overlays, Taking private property rights. Vested Land Use, Superior Alternative 66646 rights Project 13).

The potential negative environmental impact of the zoning overlays proposed in the Plan has been inadequately discuss. It would appear that Solano County should take into account the experience of the County of Riverside-vs California Department of Corrections. When the County of Riverside proposed using Land Mitigation Banks to offset in there adverse impacts in the County General Plan it was stuck down in court. (Please see attach letter).

The Solano County General Plan has published two important letters important letters (Letter 51 James D. Dekloe, Biological Sciences and Technology, Solano Community College. Letter 57 Edmund G. Brown Jr. Attorney General). That discusses the plans of the General Plan that raised Global Warming questions and AB 32 regarding the Solano County General Plan. I'm excited that two important groups that works outside the county care about everyone future, health, are comment on the inadequacy of are General Plan. I care for my personal reason and for the future generation. I urge the Board of Supervisor not to adopt this plan.

See attach letters:

July 20, 2008 to B.O.S. from June Guidotti Re: July 21, 2008 Public Comment on the 2008 Draft and Final General Plan Agricultural Land Mitigation Bank. (FO 40956 Riverside).

Letter dated: August 18, 2003 CEQA decision by the California Court of Appeal (Friends of the Kangaroo Rat Vs. California Department of Corrections (FO40956).

June Guidotti and Family and for the Public

June Guidotti & Family for the Public

The impacts are still inadequate:

All comments to June Guidotti 43 like responses, (43-1 43-3, 43-4, 43-5, 43-6, 43-7), states my comments will be provided to the County Boards of Supervisors for further consideration. I believe the burden to answers my questions in the Final EIR falls to the author of the EIR. When will the Board of Supervisor answer all of my question in letter 43?

RECEIVED
DISTRICT ATTORNEY

08 JUL 21 AM 8:06
June Guidotti
3703 Scally Road
Suisun California 94585
FAIRFIELD BRANCH
COUNTY OF SOLANO


Received

JUL 21 2008

Solano County
Board of Supervisors

RESOURCE MANAGEMENT

JUL 21 2008

RECEIVED BY: 

July 20, 2008

Solano County Board of Supervisors
675 Texas Street
Fairfield, California 94585

Re: July 21, 2008 Public Comment on the 2008 Draft & Final
General Plan on Agricultural Land Mitigation Bank.

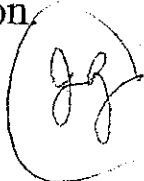
To the Solano County Board of Supervisors,

We all understand that Solano County is valued for its agricultural resource, its important wetlands. Unfortunately The Solano County draft EIR proposed to significantly reduces, value agriculture lands and irreplaceable wetlands. The General Plan, thus, attempts to comply with CEQA by requiring all public and private developer of environmentally sensitive land, such as agriculture land or wetlands or endanger species habitats, to dedicate other lands that can be used to offset or (mitigate), the damage cause buy the project to lessen the effect to the environment. The General Plan proposed to create agricultural land by using zoning overlays and wetlands zoning overlays, for a land mitigation Bank would appear invalid. The use of agricultural land use zoning overlays and wetlands land use overlays in the proposed General Plan for a mitigation Bank would appear highly questionable.

There is a critical CEQA decision by the California Court of Appeal (Friends of the Kangaroo Rat v. California Department of Corrections (August 18, 2003) Fifth Appellate District Number F040956.) that asserts that the creation of a Land Mitigation Bank

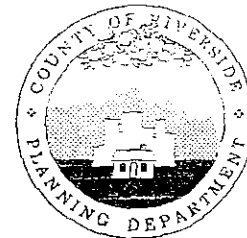
or a Land Mitigation Bank or a Conservation Easement Program is an invalid Mitigation under CEQA. The Court Case challenged the County of Riverside General Plan, a similar General Plan to the proposed Solano County General Plan. The County of Riverside also proposed to give development applicants permits if their project would convert substantial farmland acreage into Non Agriculture uses if they fulfilled a requirement to purchase credit from a County Land Mitigation Bank, which, in turn would support the preservation of existing designated farmland acreage. Therefore Solano County needs to consider that, in accordance to CEQA LAW, Land Mitigation Banking may not be a VALID form of Mitigation for Farm Land or Wetland CONVERSION IMPACTS.

The Solano County should seriously consider deleting its Land Bank Mitigation measure from the proposed Solano General Plan, as Riverside County did for its General Plan, because this is a fundamental feature regarding Solano County General Plan and because this is a late date in draft EIR comment period, it is my request that this letter be included in the final EIR for comment and Staff Discussion.

A handwritten signature, possibly initials "JR", enclosed within a hand-drawn circle.



COUNTY OF RIVERSIDE
*TRANSPORTATION AND
 LAND MANAGEMENT AGENCY*



Richard K. Lashbrook
 Agency Director

Planning Department

Robert C. Johnson
 Planning Director

MEMORANDUM

DATE: October 2, 2003
TO: Honorable Board of Supervisors
FROM: Robert C. Johnson, Planning Director
RE: Agricultural Mitigation Bank

INTRODUCTION/SUMMARY

Development under the terms, land use designations and building intensities set forth in the proposed revised RCIP General Plan will result in the loss of over 60,000 acres of designated farmland. In order to mitigate this significant adverse impact pursuant to the California Environmental Quality Act ("CEQA"), the EIR proposes the creation of an Agricultural Land Mitigation Bank. Development applicants whose projects would convert substantial farmland acreage into non-agricultural uses would be required to purchase credits from the Bank, which would support the preservation of existing designated farmland acreage.¹

A recent CEQA decision by the California Court of Appeal holds that a mitigation measure of this nature does not actually avoid or reduce the loss of farmland subject to development. (*Friends of the Kangaroo Rat v. California Department of Corrections* (August 18, 2003) Fifth Appellate District Number F040956.) As such, an Agricultural Land Mitigation Bank is not a valid form of mitigation for farmland conversion impacts. Accordingly, staff recommends that EIR Mitigation Measure 4.2.2 be deleted from the EIR.

DISCUSSION

The Draft EIR for the RCIP General Plan states that the project will result in the conversion of prime farmlands, unique farmlands, farmland of statewide importance or land actively utilized for agricultural production to a variety of non-agricultural uses. In addition to identifying several General Plan policies that will reduce this potentially significant impact, the EIR proposes a mitigation measure that would establish an Agricultural Land Mitigation Bank. Mitigation Measure 4.2.2 is as follows:

"The County shall establish an Agricultural Land Mitigation Bank. The formation, authority, and operation shall be established by the County of Riverside and shall adhere to applicable

^{1/} "Designated farmland" refers to farmland of statewide importance, unique farmland, and prime farmland.

statutes of the State of California and Riverside County. The Agriculture Land Mitigation Bank shall be established no later than two years from the date of adoption of the *2002 Riverside County General Plan*.

"4.2.2B Subsequent to the establishment of an Agricultural Land Mitigation Bank, any development within any unincorporated area of the County resulting in the conversion of more than 80 acres of Prime, Unique, or Statewide Important farmland (designated farmland) as designated by the most recent version of the Important Farmland Map (as prepared by the California Department of Conservation, Farmland Mapping and Monitoring Program) shall purchase credits in the Agricultural Land Mitigation Bank at the rate of 1 acre (credit) for every four acres (or portion thereof) of designated farmland converted to non-agricultural uses. The 80-acre threshold shall be met by any combination of designated farmland. All designated farmland within a project site shall be included in the threshold computation, regardless of the size, location within the project site, or current status (fallow or farmed). Development applications received by the County prior to operational date of the Agricultural Land Mitigation Bank shall be exempt from the provisions of this mitigation.

"In determining the amount of farmland converted to non-agricultural use, the total effect of the development shall be considered, including the total amount of farmland within the limits of the project site and any off-site land directly required for the construction and operation of the proposed development.

"The project proponent shall submit evidence to the County that all appropriate credits have been purchased prior to the issuance of grading permits.

"4.2.2C Subsequent to the establishment of an Agricultural Land Mitigation Bank, any development within unincorporated Riverside County resulting in the conversion of more than 40 acres of land actively utilized for agricultural production (active farmland), shall purchase credits in the Agricultural Land Mitigation Bank at the rate of one acre (credit) for every acre (or portion thereof) of active farmland converted to non-agricultural uses. To be considered "active farmland," land must have been utilized for agricultural production for two of the previous five years (prior to application). The 40-acre threshold shall be met only by the footprint of land on which crops are grown or livestock raised regardless of whether the land is State designated or not; and shall not include roadways, residential or production areas, equipment storage areas, or other non-production areas."

Riverside County Board of Supervisors
October 2, 2003

Notwithstanding the proposal of Mitigation Measure 4.2.2, as well as the identification of several General Plan policies to off-set the loss of designated farmland, the EIR concludes the impact is significant and unavoidable.

Following the publication of the Fifth District Court of Appeal's decision in *Friends of the Kangaroo Rat v. California Department of Corrections, supra*, it is doubtful that the Agricultural Land Mitigation Bank is a valid mitigation measure for conversion of farmland. In that case, Petitioners sued the Department of Corrections ("CDC") under CEQA to stop the construction of a prison that would accommodate 5,160 inmates on a 480-acre parcel adjacent to the western corporate limits of the City of Delano. Construction of the prison would convert 480 acres of farmland to an "institutional use." Cumulative past, present and probable future projects would convert an additional 1,820 acres of farmland to non-agricultural use. The CDC concluded this impact could not be mitigated.

Petitioners commented, and later argued, that the CDC should have considered reducing the impact of farmland conversion by creating agricultural easements over designated farmland in the vicinity of the project site. In its responses to comments, the CDC asserted there is "no known mitigation" for the loss of designated farmland. The CDC further opined:

"[T]he suggestion that CDC purchase an easement over existing farmland is novel. [] No details are provided on how an easement would mitigate loss of farmland, how such an easement would be implemented, etc. As we can only infer the suggestion here, CDC would pay the owner of existing agricultural land to continue to farm the land. This would not mitigate the loss of farmland; it would not create new farmland or compensate for the loss of farmland that has already occurred."

The Court of Appeal agreed. It observed that once the project is constructed, "480 acres of farmland will be gone." It noted "[t]he only option for 'mitigating or avoiding the project's contribution to' loss of farmland would be to not build the prison," which in essence is the EIR's "No Project Alternative."

The Court disagreed that the creation of a conservation easement was valid mitigation under CEQA. "At best," the Court stated, "such an easement might prevent the future conversion of some as yet identified parcel of farmland to a nonagricultural use." But Petitioner's desired easement would not in any way avoid, reduce, rectify or minimize the impact to the specific 480-acre parcel under review. (See CEQA Guidelines, § 15370.) Nor would the easement "compensate for the impact by replacing or providing substitute resources or environments" because the easement would not create any new farmland where no farmland presently exists. (*Ibid.*) Accordingly, the Court rejected Petitioner's proposed mitigation.

Riverside County Board of Supervisors
October 2, 2003

In our case, the EIR proposes that future development applicants purchase credits in the Agricultural Land Mitigation Bank to preserve existing designated farmland. This measure is nearly identical to the measure rejected in *Friends of the Kangaroo Rat*. Payment of fees into a mitigation bank would not actually avoid or reduce the conversion of farmland resulting from development under the proposed General Plan. At best, the purchase of bank credits would simply mitigate the impacts of some future project at a different site. Assuming the Mitigation Bank would not fund the preservation of designated farmland which the General Plan slates for non-agricultural use, the mitigation measure would not mitigate farmland conversion resultant from land use designations in the proposed General Plan.²

In light of the *Friends of the Kangaroo Rat* decision, Planning staff recommend that EIR Mitigation Measure 4.2.2 be deleted. As a matter of law, it is not valid mitigation for the loss of farmland. In any event, the impact to farmland cannot be avoided, with or without the Mitigation Bank.

Agricultural Mitigation Bank Memo.wpd

CGI

^{2/} The EIR concludes that the General Plan would slate 62,084 acres of designated farmland for non-agricultural uses. (See DEIR, pp. 4.2-12 and 4.2-17.) None of these 62,084 acres would be protected or preserved by operation of the Agricultural Land Mitigation Bank.

Comment
68
Response

June Guidotti
July 29, 2008

General:

The commenter asserts that the County should take into account the results of the *Friends of the Kangaroo Rat v. Dept. of Corrections* (2003) (5th Dist. Case No. F040956) court case. Please refer to Response to Comment 62-1 contained in Chapter 2 of this document.

4 CORRECTIONS AND REVISIONS TO DEIR AND FEIR

This chapter includes revisions made to the text in the DEIR and the FEIR after the publication of the two documents. The changes shown in this chapter reflect all of the following:

- ▶ clarifications in response to comments received on the DEIR,
- ▶ correction of production or typographical errors made in the DEIR or FEIR,
- ▶ addition or deletion of text in the DEIR or FEIR, and
- ▶ inclusion of additional information in response to questions from those commenting on the DEIR.

Changes to the DEIR and FEIR are presented in separate subsections. Within each subsection changes are presented in the order in which the original text appeared in the DEIR or FEIR and are identified by page number. Revisions are shown as excerpts from the DEIR or FEIR text, with strikethrough text (~~strikethrough~~) for deletions and underlined text (underlining) for additions.

4.1 CORRECTIONS AND REVISIONS TO THE DEIR

SECTION 4.2, "AIR QUALITY"

Mitigation Measure 4.2-1a(2) on page 4.2-24 of the DEIR is revised as follows:

Mitigation Measure 4.2-1a(2): Require Implementation of Supplemental Measures to Reduce Fugitive PM₁₀ Dust Emissions.

In addition to the required basic control measures, the County shall require each project applicant, as a condition of project approval, to implement the following enhanced and additional control measures recommended by BAAQMD and YSAQMD to further reduce fugitive PM₁₀ dust emissions:

- ▶ Hydroseeding shall be used or nontoxic soil stabilizers shall be applied to inactive construction areas (previously graded areas inactive for 10 days or more).
- ▶ Exposed stockpiles (e.g., dirt, sand) shall be enclosed, covered, or watered twice daily, or nontoxic soil binders shall be applied to such stockpiles.
- ▶ Traffic speeds on unpaved roads shall be limited to 15 mph.
- ▶ Sandbags or other erosion control measures shall be installed to prevent runoff of silt to public roadways.
- ▶ Vegetation shall be replanted in disturbed areas as quickly as possible.
- ▶ Wheel washers shall be installed on all exiting trucks, or the tires or tracks of all trucks and equipment leaving the site shall be washed off.
- ▶ Windbreaks shall be installed or trees/vegetative windbreaks shall be planted at windward side(s) of construction areas.
- ▶ Excavation and grading activity shall be suspended when winds (instantaneous gusts) exceed 25 mph.
- ▶ The area subject to excavation, grading, and other construction activity at any one time shall be limited, as necessary.

- ▶ For backfilling during earthmoving operations, water backfill material or apply dust palliative to maintain material moisture of to form crust when not actively handling; cover or enclose backfill material when not actively handling; mix backfill soil with water prior to moving; dedicate water truck or large hose to backfilling equipment and apply water as needed; water to form crust on soil immediately following backfilling; and empty loader bucket slowly; minimize drop height from loader bucket.
- ▶ During clearing and grubbing, pre-wet surface soils where equipment will be operated; for areas without continuing construction, maintain live perennial vegetation and desert pavement; stabilize surface soil with dust palliative unless immediate construction is to continue; and use water or dust palliative to form crust on soil immediately following clearing/grubbing.
- ▶ While clearing forms, use single stage pours where allowed; use water spray to clear forms; use sweeping and water spray to clear forms; use industrial shop vacuum to clear forms; and avoid use of high pressure air to blow soil and debris from the form.
- ▶ During cut and fill activities pre-water with sprinklers or wobblers to allow time for penetration; pre-water with water trucks or water pulls to allow time for penetration; dig a test hole to depth of cut to determine if soils are moist at depth and continue to pre-water if not moist to depth of cut; use water truck/pull to water soils to depth of cut prior to subsequent cuts; and apply water or dust palliative to form crust on soil following fill and compaction.
- ▶ For large tracts of disturbed land, prevent access by fencing, ditches, vegetation, berms, or other barriers; install perimeter wind barriers 3 to 5 feet high with 50% or less porosity; plant perimeter vegetation early; and for long-term stabilization, stabilize disturbed soil with dust palliative or vegetation or pave or apply surface rock.
- ▶ In staging areas, limit size of area; apply water to surface soils where support equipment and vehicles are operated; and limit ingress and egress points. For stockpiles, maintain at optimum moisture content; remove material from downwind side; avoid steep sides or faces; and stabilize material following stockpile-related activity.
- ▶ To prevent trackout, pave construction roadways as early as possible; install gravel pads; and limit site access.
- ▶ Where feasible, use bedliners in bottom-dumping haul vehicles.
- ▶ Grade each phase separately, timed to coincide with construction phase or grade entire project, but apply chemical stabilizers or ground cover to graded areas where construction phase begins more than 60 days after grading phase ends.
- ▶ During initial grading, earth moving, or site preparation, projects 5 acres or greater may be required to construct a paved (or dust palliative treated) apron, at least 100 ft in length, onto the project site from the adjacent site if applicable.
- ▶ Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 24 hrs.
- ▶ Prior to final occupancy, the applicant demonstrates all ground surfaces are covered or treated sufficiently to minimize fugitive dust emissions.
- ▶ Gravel pads must be installed at all access points to prevent tracking of mud on to public roads.

- ▶ Prior to land use clearance, the applicant shall include, as a note on a separate informational sheet to be recorded with map, these dust control requirements. All requirements shall be shown on grading and building plans.
- ▶ All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- ▶ Permanent dust control measures in an approved project revegetation and landscape plan should be implemented as soon as possible following completion of any soil disturbing activities.
- ▶ Exposed ground areas that are planned to be reworked at dates greater than 1 month after initial grading should be sown with a fast-germinating native grass seed and watered until vegetation is established.
- ▶ Require a dust control plan for earthmoving operations.

CHAPTER 6, “OTHER CEQA CONSIDERATIONS”

The cumulative discussion of “Impacts on Hydrology and Water Resources” section starting on page 6-7 of the DEIR is revised as follows:

Land uses and development consistent with the under the 2008 Draft General Plan, together with the eight cities and neighboring County’s General Plans, would result in cumulative-impacts on hydrology and water resources. As discussed in Section 4.5, “Hydrology and Water Resources,” land uses and development consistent with the 2008 Draft General Plan would result in hydrology and water quality impacts related to drainage and flooding. The development proposed in the 2008 General Plan Update in combination with the eight cities and other County General Plans could potentially result in constituent loading from increased urban runoff and wastewater discharges to surface or groundwater at greater frequencies or magnitudes compared to what would occur under the 2008 General Plan Update alone. This could contribute to greater pollutant loads within already designated impaired waters within the unincorporated areas of the county, which include Lake Herman, Laurel Creek, Ledgewood Creek, Suisun Bay, Suisun Marsh wetlands, Suisun Slough, and lower Putah Creek. The incremental effect from the implementation of the 2008 General Plan to water quality is considered to be cumulatively considerable.

Solano County cities and neighboring counties are each responsible for their own storm drainage and flood control, although the County sometimes assists the cities in addressing upstream and downstream impacts. Like Solano County, the 8 cities and neighboring counties are required to address and mitigate hydrology and water quality impacts related to drainage and flooding caused by land use changes or future projects. The Programs and Policies in the 2008 General Plan Update is also consistent with the Suisun Marsh Protection Plan, San Francisco Bay and Central Valley RWQCB basin plan water quality objectives. To further address cumulative water quality impacts from flooding and drainage, the county is performing several watershed studies evaluate problem areas from the standpoint of all lands that drain into a waterway and identify potential solutions to flooding and drainage problems. With adoption and implementation of the proposed goals, policies, and programs in the 2008 Draft General Plan, combined with current land use, stormwater, grading, and erosion control regulations, and mitigation measures discussed in Section 4.5, “Hydrology and Water Resources,” and eight cities and neighboring counties, the cumulative impacts of drainage and flooding on hydrology and water quality would be addressed both in neighboring counties, the municipal service areas and unincorporated areas of the county. Although the potential for these cumulative impacts would be greater under the Maximum Development Scenario than under the Preferred Plan because more development would be permitted, the proposed policies and programs in the 2008 Draft General Plan would be adopted and implemented under this scenario as well, and would be combined with current grading, erosion, and flood control regulations of the County and the 8 cities and counties. In addition, the following 2008 General Plan Programs and Policies Programs are designed to alleviate cumulative impacts to water quality.

- ▶ Policy RS.P-63: Identify, promote, and seek funding for the evaluation and remediation of water resource or water quality problems through a watershed management approach. Work with the regional water quality control board, watershed-focused groups, and stakeholders in the collection, evaluation and use of watershed-specific water resource information.
- ▶ Program RS.I-63: Seek funding opportunities for collaborative watershed planning approaches to water quantity and quality enhancement and protection, where such an approach is the desired method of accomplishing the program objectives.
- ▶ Program RS.I-67: Seek and secure funding sources for development of countywide water quality assessment, monitoring, remedial and corrective action, awareness/education programs. Provide technical assistance to minimize stormwater pollution, support RWQCB requirements, and manage related County programs. Consider future use of desalinization to supplement water supplies.

The Programs and policies within the 2008 General Plan and Mitigation Measure 4.5-5a(1) along with applicable County ordinance and regulatory requirements would reduce the 2008 General Plan Update contributions to impacts to water quality from drainage and flooding by requiring new development provide for water quality protection through design standards, best management practices, and project-specific mitigation that avoid increases in peak flow conditions, limit increases in impervious surfaces, regulate new point source discharges, and minimize impacts from new onsite wells and septic systems. Thus, implementation of these programs and polices would reduce the project’s contribution to cumulative water quality impact to less than considerable. Therefore, cumulative hydrology and water quality impacts related to drainage and flooding would be less than significant.

~~Cumulative development in the unincorporated area of the county plus the eight cities would increase demand on groundwater and surface water supplies, potentially adversely affecting supplies of groundwater and surface water. Solano County Water Agency is the major provider of water for both the County and the eight cities, and County ordinance requires areas of urban development in the unincorporated county (i.e., the coverage area for the 2008 Draft General Plan) to be annexed to a city, so cumulative development in the county would affect the cities as well. Section 4.5, “Hydrology and Water Resources,” identifies additional policies and mitigation measures that would further reduce the impacts of the 2008 Draft General Plan related to water supply and demand. However, these measures would not reduce cumulative impacts to a less than significant level. These cumulative impacts would be greater under the Maximum Development Scenario than under the Preferred Plan because these alternatives would result in more rural and/or urban land uses and development than would occur under the Preferred Plan. This would be a significant cumulative impact. The 2008 Draft General Plan would make a cumulatively considerable contribution to this significant cumulative impact.~~

4.2 CORRECTIONS AND REVISIONS TO THE FEIR

CHAPTER 1, “INTRODUCTION”

Table 1.1 on page 1-10 of the FEIR is revised as follows:

Table 1-1 Summary of Project Impacts and Mitigation Measures			
Impacts	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
4.9-1a (Preferred Plan) and 4.9-1b (Maximum Development Scenario): Insufficient Water Supplies to Meet the Future Water Demand in Unincorporated Areas Served by the County	S	<p>Mitigation Measures 4.9-1a(1) (Preferred Plan) and 4.9-1b(1) (Maximum Development Scenario): Implement Measures to Ensure Sufficient Water Supplies for Development Projects</p> <p>Mitigation Measures 4.9-1a(2) (Preferred Plan) and 4.9-1b(2) (Maximum Development Scenario): Implement a Countywide Groundwater Balance Budget and Monitoring Program</p> <p>Mitigation Measure 4.9-1a(3) (Preferred Plan) and 4.9-1b(3) (Maximum Development Scenario): <u>Comply with the Recommendations of the North Solano Groundwater Resources Report for a Staged Mitigation Plan.</u></p>	<u>LTS</u> SU

The impact discussion of impacts 4.9-1a and 4.9-1ab on page 4-27 of the FEIR is revised as follows:

Impacts	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
4.9-1a (Preferred Plan) and 4.9-1b (Maximum Development Scenario): Insufficient Water Supplies to Meet the Future Water Demand in Unincorporated Areas Served by the County. Land uses and development consistent with the 2008 Draft General Plan would increase the demand for water. Available water sources would be insufficient to serve some of the unincorporated areas of the county with buildout of the 2008 Draft General Plan. New methods to obtain water and additional sources of supply would be required. This impact would be significant .	S	<p>Mitigation Measures 4.9-1a(1) (Preferred Plan) and 4.9-1b(1) (Maximum Development Scenario): Implement Measures to Ensure Sufficient Water Supplies for Development Projects. The County shall implement the following measures to ensure sufficient water supplies for land development projects in the unincorporated county under the 2008 Draft General Plan:</p> <ul style="list-style-type: none"> ▶ Before approval of any project as defined in Part 2.10 of the California Water Code, the lead water supply agency shall comply with SB 610 requirements to ensure that adequate water supply is available and is sufficient to meet current and future demands. 	<u>LTS</u> SU

Impacts	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
		<ul style="list-style-type: none"> <li data-bbox="1039 264 1736 505">▶ Before approval of any tentative small-lot subdivision map for a proposed residential project of more than 500 dwelling units (this requirement also applies to increases of 10% or more of service connections for public water systems with fewer than 500 service connections), the County shall comply with SB 221 requirements for verification of sufficient subdivision water supplies, as specified in Section 66473.7 of the Government Code. <li data-bbox="1039 524 1736 764">▶ Before approval of any tentative small-lot subdivision map for a proposed residential project of 500 or fewer units, the County need not comply with Section 66473.7 or formally consult with the public water system that would provide water to a proposed subdivision, but shall nevertheless make a factual showing or impose conditions similar to those required by Section 66473.7 to ensure an adequate water supply for development authorized by the map. <li data-bbox="1039 800 1736 1193">▶ Before recordation of any final small-lot subdivision map, or before County approval of any project-specific discretionary approval or entitlement required for nonresidential land uses, the County or the project applicant shall demonstrate, based on substantial evidence, the availability of a long-term, reliable water supply from a public water system for the amount of development that would be authorized by the final subdivision map or project-specific discretionary nonresidential approval or entitlement. Such a demonstration shall consist of a written verification that existing sources are or will be available and that needed physical improvements for treating and delivering water to the project site will be in place before occupancy. <li data-bbox="1039 1229 1736 1313">▶ The County shall comply with SB 221 requirements for verification of sufficient water supplies as specified in Section 66473.7 of the Government Code. 	

Impacts	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
		<p>Mitigation Measures 4.9-1a(2) (Preferred Plan) and 4.9-1b(2) (Maximum Development Scenario): Implement a Countywide Groundwater Balance Budget and Monitoring Program.</p> <p>Ongoing groundwater monitoring is critical for evaluating existing conditions and comparing groundwater extractions against projected sustainable yields on a countywide basis. To achieve this, a countywide groundwater balance budget shall be developed that incorporates the provisions of Policy RS.P-65, which calls for coordination with SCWA to monitor and manage the county’s groundwater supplies, and Program RS.I-70, which requires the County Department of Resource Management, together with SCWA and the cities, to create and maintain a comprehensive database of information about groundwater supply and quality, and to complete a countywide groundwater study that fills the gaps among disparate aquifer-specific studies in the county. This groundwater balance budget and monitoring program shall be implemented to facilitate evaluation of current groundwater conditions. It shall also provide evaluation of the effectiveness of the 2008 Draft General Plan goal, policies, and programs associated with Impact 4.5-4a in Section 4.5, “Hydrology and Water Resources,” that pertain to groundwater-recharge efforts and sustainable groundwater levels.</p>	

The fifth bullet and following paragraph in “2.10 Master Response J: Biological Resources Mitigation Strategies” on the top of page 2-17 of the FEIR is revised as follows:

- ▶ measures to restore and protect lands so that no net loss of acreage and overall habitat value occur ~~preserved in accordance with the 1:1 ratio~~ (Mitigation Measures 4.6-1[a] and 4.6-1[b], measure [1]; Mitigation Measure 4.6-3[a] and 4.6-3[b], measure [3]).

It is anticipated that mitigation ratios developed under the recommended standards would range between 1:1 to 18:1 (mitigation to impact ratio) depending on the habitat conditions, values, location, and specific species impacted at a site. Notably, ~~the proposed~~ a 1:1 mitigation ratio is *twice* the ratio at issue in *ECOS*.

Response 27-15 on page Response 27-4 of the FEIR is revised as follows:

Policy RS.P-56 in the 2008 Draft General Plan encourages the use of technology or siting to minimize adverse impacts from energy production facilities on the environment, including wildlife. Changing the language of the policy from “encourage” to “require” would require a change to the 2008 Draft General Plan. Although no further mitigation is required to reduce Impacts 4.6-9a and 4.6-9b (“Direct Mortality of Bats and Birds from Expansion of Wind Resources”) to a less-than-significant level (see pages 4.6-59 through 4.6-62 of the DEIR), the commenter’s recommendation has been forwarded to the County Board of Supervisors for consideration. Please refer to Master Response A D, “Proposed Changes in Policy Language,” in Chapter 2 of this FEIR. Further, Mitigation Measure 4.6-9a, measure (b), on page 4.6-62 in the DEIR expands on the requirements in Policy RS.P-56, requiring all project proposals for the development of wind energy to implement specific avoidance measures. This mitigation measure has been modified further, based on Comment 5-6 by DFG, to require project applicants for new wind turbine generator proposals, before and as a condition of project approval, to consult with DFG, USFWS, and species experts in the development of site-specific avoidance and minimization requirements to minimize impacts on sensitive, high-value, or protected habitats. Please refer to Responses to Comments 5-3, 5-5, 5-6, and 5-9.

The last paragraph of the revised “Impacts on Recreation” section on page 6-12 of the DEIR is further revised as follows:

With respect to mitigation, the EIR includes all available feasible mitigation to reduce the project’s contribution to cumulative recreational ~~aesthetic~~ resource impacts (see Section 4.14, “Recreation”). Potential impacts on County facilities resulting from increased city populations and potential impacts on city facilities resulting from growth in the unincorporated county, however, are not addressed through policies or mitigation measures. Therefore, implementation of recommended mitigation is not sufficient to reduce the cumulative contribution of the 2008 Draft General Plan to a level that is not considerable.

The last paragraph of the revised “Impacts on Recreation” section on page 6-12 of the DEIR is further revised as follows:

The first paragraph of the text that the FEIR added to the impact discussion for Impact 6.2-1, between the end of the bulleted list of relevant goals, policies, and programs and the impact conclusion, on page 6-42 of the DEIR is revised as follows:

The policies and programs in the 2008 Draft General Plan are strikingly consistent with the examples of mitigation measures identified in *CEQA and Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review*, a technical advisory recently released by the Governor’s Office of Planning and Research (OPR 2008). Table 6-6 lists several ~~each~~ of the mitigation measures recommended in the technical advisory and identifies which goals, policies, and programs of the 2008 Draft General Plan implement the recommended measures.

Table 6-5 as presented in the FEIR on page 4-179 is revised as follows:

**Table 6-5
Estimated Greenhouse Gas Emissions from Energy Consumption and Water Use
Associated with the 2008 Draft General Plan**

Indirect Emissions from Energy Consumption

KWh/du/yr	# du	KWh/ksf/yr	# ksf Commercial	Total KWh	MWh	Region	Emission Factor (lb CO ₂ /MWh)	GWP	Emission Factor (lb CH ₄ /MWh)	GWP	Emission Factor (lb N ₂ O/MWh)	GWP	Total CO ₂ e (Metric Tons/yr)
7000	7543	16,750	8948	202,680,000	202,680	CALI	804.54	1	0.0067	23	0.0037	296	74,080

Indirect Emissions from Water Use (includes conveyance, treatment, distribution, and wastewater treatment)

KWh/million gallons/year	KWh/acre-ft/year	Net increase (acre-ft/year)	Total KWh	MWh	Region	Emission Factor (lb CO ₂ /MWh)	GWP	Emission Factor (lb CH ₄ /MWh)	GWP	Emission Factor (lb N ₂ O/MWh)	GWP	Total CO ₂ e (Metric Tons/yr)
3,950	1287	<u>18,426</u> 24,423	<u>23,715,445</u> 31,433,969	<u>23,715</u> 31,434	CALI	804.54	1	0.0067	23	0.0037	296	8,668 11,489

Total Indirect Greenhouse Gas Emissions

82,748
~~**85,569**~~

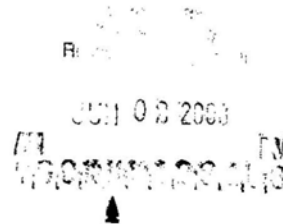
Notes:
 CH₄ = methane; CO₂e = carbon dioxide equivalent; du = dwelling unit; GWP = global warming potential; ksf = thousand square feet; kWh = kilowatt-hours; kWh/du/yr = kilowatt-hours per dwelling unit per year; kWh/ksf/yr = kilowatt-hours per thousand square feet per year; lb CH₄/MWh = pounds of methane per megawatt-hour; lb CO₂/MWh = pounds of carbon dioxide per megawatt-hour; lb N₂O/MWh = pounds of nitrous oxide per megawatt-hour; MWh = megawatt-hours
 Water use rates are drawn from the DEIR for the 2008 Draft General Plan.
 Sources: California Energy Commission 2000, 2005; CCAR 2007

Letter 19 from Robin Leong of the Napa-Solano Audubon Society was mistakenly omitted from the FEIR. The letter and the County's responses are provided below.



Napa-Solano Audubon Society
Post Office Box 10006
Napa, CA 94581

June 2, 2008



Jim Louie, Senior Planner
Solano County Resource Management Dept.,
675 Texas Street, Suite 5500
Fairfield, CA 94533

RE: Draft Environmental Impact Statement (DEIR) for the Solano County
General Plan SCH# 2007122069

Dear Mr. Louie,

I am writing on behalf of the 996 members of the Napa-Solano Audubon Society (NSAS) as a member of its conservation committee to make comments on the DEIR for the Solano County General Plan. I have found several errors in this document and will comment on several items in the DEIR that may have lasting impacts on natural resources.

19-1

In the DEIR Section 4.6 **Biological Resources**, Table 4.6-2 entitled Special-Status Wildlife Species Known to Occur or Potentially Occurring in Solano County, there are several omissions in the birds section as a result of NSAS's on going and unpublished study of Solano County Breeding Bird Atlas (SCBBA) (2005-2009) and because California Department of Fish and Game (DFG) California Species of Concern list was recently revised. Please **omit** Cooper's Hawk, Sharp-Shinned Hawk, and Osprey. Please **add** Snowy Plover T (USFWS), Yellow Rail CSC, Least Tern E or PDF (USFWS), Yellow warbler CSC, and Grasshopper Sparrow CSC. Therefore this table is inadequate.

19-2

We thoroughly agree that the loss of 5,697 acres of agricultural habitat would result in a significant loss of habitat for the California Threatened Swainson's Hawk (SWHA) and California Species of Concern Burrowing Owl (BUOW). There is an article in Central Valley Bird Club Bulletin Vol. 10 No 4, entitled Swainson's Hawk Nests in Yolo and Solano Counties by Dr. Laurence J. Resseguie. He discussed the 104 nests found in Solano in 2004 and 144 nests in 2005. This information coupled with just three years of SCBBA data has found SWHA nest in one third of the blocks (5 km x 5 km) surveyed, mostly in agricultural habitat. Additionally, we have found 13 blocks with BUOW, again mostly in agricultural habitat. Unfortunately we have noticed recently where urbanization replaced agricultural fields, these species no longer breed. We have surveyed sections of land set aside to mitigate for SWHA with no apparent nesting success. Mitigation does not seem to work. It might work if the

19-3

mitigation ratio is larger than the 1:1 and if nesting trees were left standing for the SWHA. There should also be more monies collected to maintain the continuation of the bullets under 4.6-1a: Preserve Agricultural Foraging Habitat.

As for BUOW, mitigation does not seem to work, too. Vacaville and Fairfield birds were moved to Rush Ranch. After one year the birds were extirpated. NSAS feels that the better solution to keeping these threatened bird populations viable is to leave the land as agricultural and in fill the current urbanized areas through redevelopment.

19-3
Cont'd.

Notice Of Preparation (NOP) Comments

Our NOP comments recommended that the DEIR contain information that we did not see in the DEIR. Therefore we recommend that the following information be provided in the Final Environmental Impact Report:

The General Plan Biological Resources section can be updated to include the most recent data on avian distribution contained in the results of the Solano County Breeding Bird Atlas. Please visit http://www.pwrc.usgs.gov/bba/index.cfm?fa=explore.ProjectHome&BBA_ID=CA-Sol2004 for the latest information. The area in the Montezuma Wetlands project near Collinsville is where the endangered Least Terns and Snowy Plovers were found nesting in 2005 (Probable), 2006 (Confirmed) and in 2007 (Confirmed). This information is filed with the California Natural Diversity Database. This area should be protected and managed for these special species of birds. Please visit http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp to update the California Species of Concern bird list.

19-4

NSAS is very concerned that the revised Solano County General Plan shows Wind Energy Resources would be allowed to be north of State Route 12. This area that has many wintering sensitive species as stated in the NOP comments. SCBBA surveys are not completed for this area to determine if more sensitive breeding species occur than shown in Figure 6-12: SWHA Priority Conservation Areas. The SWHA Priority Conservation boundary should go southward to Hwy 12. Figure 6-3: Ranking Qualities of Solano County Protected Lands on page 6-33 of the Biological Resources Report does not rank this area. It should be a Group 2 ranking.

19-5

Section 4.12 page 4 discusses other Wind Resource Areas: **"the Vaca Mountains area in northeastern Solano County, the Potrero Hills area in the central county, and the Cordelia Hills between Suisun Marsh and the Napa Valley."** It should be noted that the Vaca Mountains area is a poor place for Wind energy resources as it is a major migration path for birds. The Potrero Hills area is within the Secondary Management Area of Suisun Marsh as identified in AB 1717 Chapter 2 sec 29101-29103. It is a bad place for a wind resource area. Waterfowl, raptors, other birds and bats rise out of Suisun Marsh and can be maimed or killed by the wind turbines. It also is a poor place for wind energy resources.

19-6

In addition, mitigation should include 1) Reducing the number of acres of land converted to wind turbines to lessen the avian and bat mortality rates especially in the proposed acreage North of State Route 12, 2) During bird migration periods turbine use should be reduced or stopped to avoid high rates of bird mortality, 3) The County should implement a program to replace the old turbines with new turbines (designed to reduce impacts and mortality) at a ratio of removing 15 old turbines for each new, improved, turbine approved for installation. These are found in the Bird's Landing – Collinsville area, and 4) The County should implement requirements that new turbines not be sited in, or near, bird nesting areas, flyway paths, and bat habitats,

19-7

NSAS thanks Solano County for the opportunity to provide comments on the Draft Environmental Impact Report. The 2008 Solano General Plan proposes changes that will lead to conversion of agricultural land and open space. Understandably this is the price of progress. However, by in filling in the current urban areas, and reducing the number of acres of land identified for rural residential development the impacts of progress could be lessened.

19-8

Please notify NSAS at the above address when the Final Draft Environmental Impact Report (FEIR) is available for review and comment.

Sincerely,



Robin Leong
Member of the NSAS conservation committee

19-1 The comment is noted.

19-2 The commenter states that there are several omissions in the bird section of Table 4.6-2 of the DEIR because of the recently published DFG California Bird Species of Concern list.

The comment is noted. This list was published after the completion of the DEIR; however, because this has future implications for impacts on these species, as shown in Chapter 4 of this FEIR, Table 4.6-2 is revised to omit Cooper's hawk, sharp-shinned hawk, and osprey and include snowy plover, yellow rail, least tern, yellow warbler, and grasshopper sparrow.

19-3 The loss of 5,697 acres of agricultural habitat is a significant loss of habitat for Swainson's hawk and burrowing owl. Habitat mitigation at a 1:1 ratio is required for all permanent impacts that result in the loss of foraging and nesting habitat for Swainson's hawk and burrowing owl.

The basis of the 1:1 mitigation for preserving foraging habitat is the increased value of the habitat that is associated with the required management, planting of future nest trees, and the long-term assurances that preserved lands will be used only to grow crops compatible with the foraging needs of Swainson's hawk. One of the stipulations for complying with Mitigation Measure 4.6-1a is that each preserve established for Swainson's hawk and burrowing owl contain a funding mechanism. This funding mechanism, such as an endowment, must be sufficient to fund the long-term maintenance, management, and monitoring requirements.

The commenter also suggests leaving nest trees in place. Although there are a number of "urban nesting" Swainson's hawk in Vacaville and Dixon and retention of nest trees is often recommended/required by DFG, avoided trees become unsuitable or are abandoned in the long term as surrounding lands are developed and foraging habitat diminishes. Planting of trees for future, long-term nesting opportunities is a typical component of establishing protected Swainson's hawk habitat.

The commenter also states the opinion that the better solution to keeping the threatened bird populations viable is to leave the land as agricultural and infill the current urbanized areas through redevelopment. Alternatives 2, 3, and 4—the Improved Environmental Sustainability, Reduced Commercial and Industrial Development, and Reduced Rural Residential Development Alternatives, respectively—analyzed in Chapter 5 of the DEIR would result in less conversion of agricultural lands, as requested by the commenter.

Further, as stated in Policy LU.P-2, a cornerstone principle of the 2008 Draft General Plan is the direction of new urban development and growth toward municipal areas. To that end, the 2008 Draft General Plan contains numerous policies and programs designed to maintain agricultural lands in agriculture (see Chapter 3 of the 2008 Draft General Plan). Indeed, although not required under state law, the 2008 Draft General Plan contains an agricultural element to present goals, policies, and programs specifically designed to support the growth and health of agriculture in Solano County.

As discussed in Section 6.3 of the DEIR, however, by definition, the 2008 Draft General Plan intends to provide for and address future growth in the unincorporated portions of the county. It

would be unreasonable to fully prohibit any nonagricultural uses throughout the planning time frame. Nevertheless, the 2008 Draft General Plan expresses a primary desire to ensure the long-term protection of existing agricultural land uses and opportunities for economic, environmental, and social-equity benefits. For this reason, the policies and programs in the 2008 Draft General Plan provide incentives and conservation techniques (e.g., transfer of development rights, agricultural buffers, Agricultural Reserve Overlay) to protect and maintain agricultural lands in Solano County. Along with policies and programs protecting agricultural lands in the county, the 2008 Draft General Plan identifies new urban development primarily adjacent to existing urban communities. The identified location for new urban development and policies and programs for protecting agriculture in the 2008 Draft General Plan would direct major construction activity toward existing urban centers and within incorporated cities and towns.

Please refer to Master Response A, “Proposed Changes in Policy Language,” in Chapter 2 of this FEIR for a discussion of how comments or proposed suggestions to revise the existing policies in the 2008 Draft General Plan have been and will be considered by the County.

- 19-4 Please refer to Response to Comment 19-2. The revised Table 4.6-2 (shown in Chapter 4 of this FEIR) includes the additional species of special concern listed in DFG’s publication *California Bird Species of Concern*. The 2008 Draft General Plan cannot designate reserve areas; it can only identify areas with sensitive biological resources. Updating the Resource Conservation Overlay to include the area near the Montezuma Wetlands project where least tern and snowy plover occur would require a change to the 2008 Draft General Plan. The commenter’s recommendation will be provided to the County Board of Supervisors for further consideration.
- 19-5 Please refer to Responses to Comments 5-29 and 5-32.
- 19-6 Policy RS.P-56 encourages the use of technology or siting to minimize adverse impacts from energy production facilities on the environment, including wildlife. In the DEIR, Mitigation Measure 4.6-9a, measure (b), on page 4.6-62 expands on the requirements in Policy RS.P-56, requiring all project proposals for the development of wind energy to implement specific avoidance measures; however, it does not include a requirement for buffers from mitigation areas. In response to this comment, and as shown in Chapter 4 of this FEIR, the text of Mitigation Measure 4.6-9a, measure (b), on page 4.6-62 of the DEIR is revised as follows:
- (b) Avoidance and Minimization.** Policy RS.P-56 encourages the use of technology or siting to minimize adverse impacts from energy production facilities on the environment, including wildlife. This policy shall be expanded to require all project proposals for the development of wind energy to implement the following measures when selecting a project site and turbine layout and developing the facility’s infrastructure:
- ▶ Fragmentation and habitat disturbance shall be minimized.
 - ▶ Buffer zones shall be established to minimize collision hazards (for example, placement of turbines within 100 meters of a riparian area shall be avoided).
 - ▶ Impacts shall be reduced with appropriate turbine design and layout.
 - ▶ Artificial habitat for prey at the turbine base area shall be reduced.
 - ▶ Lighting that attracts birds and bats shall be avoided.
 - ▶ Power line impacts shall be minimized by placing lines under ground whenever possible.

- ▶ Use of structures with guy wires shall be avoided.
- ▶ Nonoperational turbines shall be decommissioned.

The County shall also require project applicants for new wind turbine generator proposals, before and as a condition of project approval, to consult with DFG, USFWS, and species experts in the development of site-specific avoidance and minimization requirements to minimize impacts on sensitive, high-value, or protected habitats. These requirements shall include developing appropriate buffers between wind energy development projects, existing conservation easements, and mitigation banks.

Please also refer to Responses to Comments 5-3, 5-5, 5-6, and 5-9.

19-7

The commenter states that additional mitigation should include all of the following actions:

- ▶ Reduce the number of acres of land converted to wind turbines to lessen the avian and bat mortality rates, especially in the proposed acreage north of State Route (SR) 12.
- ▶ During bird migration periods, reduce or stop turbine use to avoid high rates of bird mortality.
- ▶ Implement a program to replace the old turbines with new turbines at a ratio of removing 15 old turbines for each new, improved, turbine approved installation.
- ▶ Implement requirements that new turbines not be sited in, or near, bird nesting areas, flyway paths, and bat habitats.

Please refer to Responses to Comments 5-3, 5-5, 5-6, 5-9, and 19-7. With implementation of the policies, programs, and mitigation measure identified in the DEIR (along with the modification to Mitigation Measure 4.6-9a, measure [b], shown in Response to Comment 19-6 and Chapter 4 of this FEIR), the impact of direct bird and bat mortality from expansion of wind energy resources would be less than significant. No further mitigation is required. Nevertheless, the commenter's suggestion will be provided to the County Board of Supervisors for further consideration. On July 8, 2008, staff recommended that the Wind Resources Overlay (WRO) be removed from the area north of SR 12. However, the board directed staff on that date to remove the WRO entirely from the land use diagram and add a wind resource map to the Resources chapter of the 2008 Draft General Plan. Please refer to Master Response A, "Proposed Changes in Policy Language," in Chapter 2 of this FEIR.

19-8

The comment is noted. Although this comment does not relate specifically to the EIR for the 2008 Draft General Plan, it will be provided to the County Board of Supervisors for further consideration.