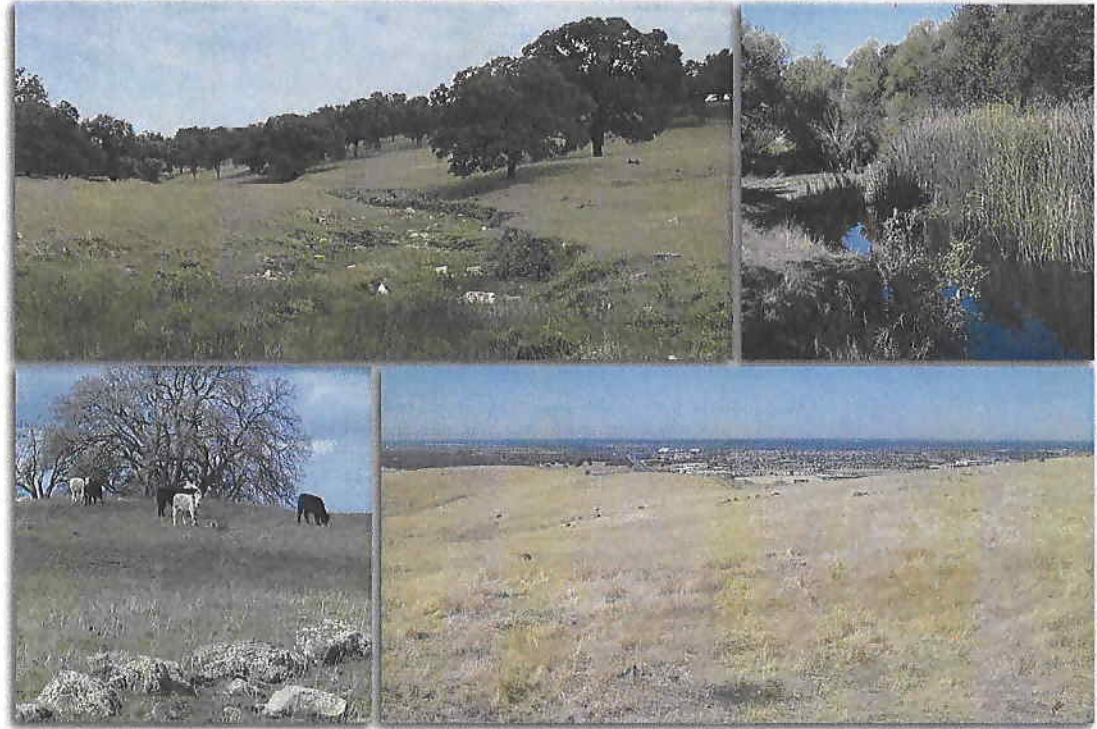


Additional Responses to Comments on the Draft Environmental Impact  
Report and the Final Environmental Impact Report  
Folsom South of U.S. Highway 50 Specific Plan Project

SCH #2008092051

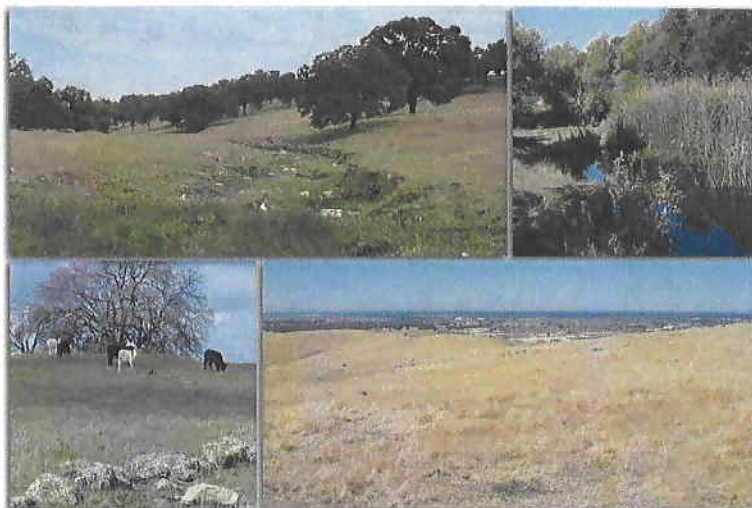


CITY OF  
**FOLSOM**  
DISTINCTIVE BY NATURE

Prepared by:  
AECOM and RMC Water and Environment



Additional Responses to Comments on the Draft Environmental Impact Report  
and the Final Environmental Impact Report  
**Folsom South of U.S. Highway 50 Specific Plan Project**



Prepared for:  
City of Folsom  
50 Natoma Street  
Folsom, CA 95630  
Attn: David Miller  
(916) 355-7222

June 2011

"Land" Analysis Prepared by:  
AECOM  
2020 L Street, Suite 400  
Sacramento CA 95811  
Contact:  
Francine Dunn/Principal/(916) 414-5800



"Water" Analysis Prepared by:  
RMC Water and Environment  
1451 River Park Drive, Suite 142  
Sacramento CA 95815  
Contact:  
Steve Brown/Principal/(916) 564-2236



# 1 INTRODUCTION

This “Additional Responses to Comments on the DEIR and FEIR” has been prepared to respond to comments received on the Draft Environmental Impact Report (DEIR) for the Folsom South of U.S. Highway 50 (U.S. 50) Specific Plan Project after the close of the public comment period (i.e., letter from Teichert Aggregates, Inc. dated September 20, 2010 but received on May 16, 2011), and to comments received after publication of the Final Environmental Impact Report (FEIR). This document has been prepared by the City of Folsom (City) as the CEQA lead agency.

On June 28, 2010, the City and USACE released the DEIR/DEIS for public review and comment. The comment period closed on September 10, 2010, after being extended by the City. The DEIR/DEIS evaluated the potential environmental effects of the Proposed Project (Proposed Project Alternative) and five land use alternatives, along with the Proposed Off-Site Water Facility Alternative and 10 water conveyance alternatives. A public workshop was held at Folsom City Hall on August 2, 2010, and a public hearing to receive public input on the DEIR/DEIS was held at Folsom City Hall on August 4, 2010. The public hearing was recorded and transcripts were made of public comments received both at the workshop and at the hearing. Written comments were received from Federal, state, regional, and local agencies, as well as from organizations and individuals; comments were also received during the public hearing. The City and USACE considered and responded to all comments received on the DEIR/DEIS.

The EIR/EIS consists of the DEIR/DEIS (Volumes I, II, and III and appendices thereto); the comments, responses to comments, and revisions to the DEIR/DEIS contained in the FEIR/FEIS (Volume I and appendices thereto); and the Additional Responses to Comments on the DEIR and FEIR (Volume I).

Pursuant to State CEQA Guidelines Section 15088, “The Lead Agency shall respond to comments received during the noticed comment period...” In this case, the noticed comment period ended on September 10, 2010. Pursuant to Public Resources Code (PRC) Section 21092.5(c), the lead agency is not required to respond to comments that are not received within the specified comment periods. Therefore, the City is not legally obligated to respond to any of the comments contained herein, which were received after the close of the comment period. Nonetheless, in the interests of transparency and comprehensively addressing comments received on the DEIR and FEIR, the City is voluntarily responding to the comments.

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## 2 LIST OF COMMENTERS AND INDIVIDUAL RESPONSES

### 2.1 LIST OF COMMENTERS

Table 2-1 provides a list of the organizations and persons who (1) submitted comments that the City did not receive during the public comment period on the Draft Environmental Impact Report (DEIR), and (2) submitted comments after the Final Environmental Impact Report (FEIR) was circulated, to which the City of Folsom (City) is responding in this *Additional Responses to Comments on the DEIR and FEIR*.

Table 2-1 List of Commenters		
Organizations / Individuals	Letter Date	Letter ID
Teichert Aggregates, Inc. (James B. Wiley of Taylor & Wiley)	May 16, 2011	Teichert-3
Teichert Aggregates, Inc. (John M. Taylor of Taylor & Wiley)	September 10, 2010 (received May 16, 2011)	Teichert-4
Angelo G. Tsakopoulos (Scott N. Castro of Jeffer, Mangels, Butler & Marmaro LLP)	May 17, 2011	Tsakopoulos-3
County of Sacramento, Municipal Services Agency Michael Penrose, Director, Department of Transportation	May 18, 2011	Sac Cnty-3
Legal Services of Northern California, on behalf of the Sacramento Housing Alliance Mona Tawatao, Regional Counsel	May 18, 2011	LSNC

### 2.2 INDIVIDUAL RESPONSES

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 prior individual response or master response that was provided in the FEIR/Final Environmental Impact Statement (FEIS) (circulated on May 6, 2011). Each comment contained in the comment letter is summarized in *italics* at the beginning of each comment response.

**TAYLOR & WILEY**

A PROFESSIONAL CORPORATION

**ATTORNEYS**

2870 GATEWAY OAKS DR., SUITE 200  
SACRAMENTO, CALIFORNIA 95833

TELEPHONE: (916) 929-5545

TELEFAX: (916) 929-0283

JOHN M. TAYLOR  
JAMES B. WILEY  
JESSE J. YANG  
KATE A. WHEATLEY  
MATTHEW S. KEASLING  
JAMES E. MIZELL, III

May 16, 2011

OF COUNSEL  
KATHLEEN R. MAKEL

VIA OVERNIGHT DELIVERY AND E-MAIL

Ms. Gail Furness de Pardo  
City of Folsom Community Development Department  
50 Natoma Street  
Folsom, California 95630

Re: Final EIR/EIS for Folsom South of U.S. 50 Specific Plan Project (SCH #  
2008092051)

Dear Ms. Furness de Pardo:

Taylor & Wiley represents Teichert, Inc. ("Teichert") with respect to its Teichert Quarry project, which is located approximately one mile south of the proposed Folsom South of U.S. 50 Specific Plan Project ("Project"). We previously submitted three comment letters on the City's Draft EIR/EIS for the Project: 1

- 1) letter dated July 15, 2010, requesting an extension of the comment period;
- 2) letter dated September 10, 2010, addressed to the U.S. Army Corps of Engineers ("Corps") regarding the National Environmental Policy Act ("NEPA"); and 2
- 3) letter dated September 10, 2010, addressed to the City regarding the California Environmental Quality Act ("CEQA").

In reviewing the Final EIR/EIS for the Project, it has come to our attention that the City only responded to the first two letters and did not respond to our attached comment letter dated September 10, 2010, regarding CEQA. 3

Please feel free to call if you have any questions or need further information regarding our comments.

Very truly yours,



James B. Wiley

Enclosure

cc: Michael Smith, Teichert Aggregates

**Letter  
Teichert-3  
Response**

**Teichert Aggregates Inc.  
(James B. Wiley of Taylor & Wiley)  
May 16, 2011**

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Teichert-3-1 *The comment states that Taylor & Wiley represents Teichert, Inc. with respect to its quarry project located south of the Folsom South of U.S. 50 Specific Plan Area (SPA). The comment states that Taylor & Wiley previously submitted three comment letters on the DEIR/Draft Environmental Impact Statement (DEIS), and that the first letter dated July 15, 2010 requested an extension of the comment period.*

The City received and responded to the letter from Taylor & Wiley dated July 15, 2010. See responses to comments Teichert-1-1 through Teichert-1-3 in the FEIR/FEIS.

Teichert-3-2 *The comment states that Taylor & Wiley submitted a comment letter dated September 10, 2010 addressed to the U.S. Army Corps of Engineers (USACE) regarding the National Environmental Policy Act (NEPA).*

The USACE received and responded to the letter from Taylor & Wiley dated September 10, 2010. See responses to comments Teichert-2-1 through Teichert-2-232 in the FEIR/FEIS.

Teichert-3-3 *The comment states that Taylor & Wiley submitted a comment letter dated September 10, 2010 addressed to the City regarding the California Environmental Quality Act (CEQA). The comment states that the City did not respond to the September 10, 2010 letter, and indicates that a copy of that letter is attached to this May 16, 2011 letter.*

The City has conducted a diligent search of its files, and has located no record of receiving the referenced letter from Taylor & Wiley addressed to the City on the Folsom South of U.S. Specific Plan project on September 10, 2010 or at any time during the public comment period on the DEIR/DEIS. The comment letter related to CEQA was provided to the City for the first time on May 16, 2011, approximately 8 months after the end of the comment period on the DEIR/DEIS. Pursuant to State CEQA Guidelines California Code of Regulations (CCR) Section 15088, "The Lead Agency shall respond to comments received during the noticed comment period..." In this case, the noticed comment period ended on September 10, 2010. Pursuant to Public Resources Code (PRC) Section 21092.5(c), the lead agency is not required to respond to comments that are not received within the specified comment periods. Therefore, the City is not obligated to respond to the Taylor & Wiley letter dated September 10, 2010. Nonetheless, in the interests of transparency and comprehensively addressing comments received on the DEIR and FEIR, the City is voluntarily responding to the comments contained in the September 20, 2010 letter. See comment letter Teichert-4 below and the responses thereto.

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# TAYLOR & WILEY

A PROFESSIONAL CORPORATION

## ATTORNEYS

2870 GATEWAY OAKS DR., SUITE 200  
SACRAMENTO, CALIFORNIA 95833

TELEPHONE: (916) 929-5545

TELEFAX: (916) 929-0283

JOHN M. TAYLOR  
JAMES B. WILEY  
JESSE J. YANG  
KATE A. WHEATLEY  
MATTHEW S. KEASLING  
JAMES E. MIZELL, III

OF COUNSEL  
KATHLEEN R. MAKEL

September 10, 2010

### HAND DELIVERED

Ms. Gail Furness de Pardo  
City of Folsom Community Development Department  
50 Natoma Street  
Folsom, California 95630

Re: Draft EIR/EIS for Folsom South of U.S. 50 Specific Plan Project (SCH #  
2008092051)

Dear Ms. Furness de Pardo:

Taylor & Wiley represents Teichert, Inc. ("Teichert") with respect to its Teichert Quarry project, which is located approximately one mile south of the proposed Folsom South of U.S. 50 Specific Plan Project. The City of Folsom ("City") is well aware of the Teichert Quarry project, having submitted several comment letters regarding the environmental impact report (EIR) that the County of Sacramento prepared for the that project. Copies of those comment letters are attached for your reference. The purpose of this letter is to provide comments on the City's Draft EIR (DEIR) for the Folsom South of U.S. 50 Specific Plan Project ("Project"). Interestingly enough, several of our comments are the same or similar to those contentions made by the City with respect to the EIR for the Teichert Quarry project. 1

### **General Comments**

Adequacy of Impact Analysis. The CEQA Guidelines provide: "An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences."<sup>1</sup> In some cases, such as an EIR for a general plan, it is permissible to provide more of a "program-level" analysis and defer more detailed analysis to future project-specific environmental reviews that would be prepared for subsequent individual projects implementing the plan.<sup>2</sup> However, in the case of specific plans such as the Project, future residential projects that are consistent with an adopted specific plan are exempt from CEQA.<sup>3</sup> For this reason, a specific plan EIR must provide as much detail as reasonably feasible,<sup>4</sup> because the environmental consequences of future 2

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<sup>1</sup> CEQA Guidelines § 15151.

<sup>2</sup> See CEQA Guidelines § 15152, subd. (a).

<sup>3</sup> Cal. Government Code § 65457.

<sup>4</sup> CEQA Guidelines § 15151.

residential development consistent with that specific plan will not be subject to additional CEQA review. In several instances, as discussed in detail below, the DEIR fails to adequately analyze the environmental impacts of the Project to the extent “reasonably feasible” as CEQA requires. In other cases, such as the modeling of noise and air quality impacts, the DEIR uses improper methodology, which results in an inaccurate characterization of potential impacts. These deficiencies result in an EIR that fails to adequately inform decision makers of the environmental consequences of the Project as required by CEQA.<sup>5</sup>

2 cont.

3

Deferral of Mitigation Formulation. As discussed in further detail below, the DEIR contains many mitigation measures requiring that additional studies or mitigation plans be submitted after approval of the Specific Plan as part of subsequent phases of the Project. It is improper to defer the formulation of important mitigation measures until after project approval.<sup>6</sup> Moreover, mitigation measures must be feasible under CEQA.<sup>7</sup> The DEIR’s deferral of mitigation specifics deprives citizens and decision-makers of an opportunity to evaluate the feasibility and effectiveness of such measures.

4

Segmentation. A “project” under CEQA is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.”<sup>8</sup> Thus, an EIR should consider the “whole of a project” and not its individual components when evaluating the significance of environmental effects. In this case, the DEIR considers both the land use and water supply components of the Project, but it splits its analysis of Project impacts into separate impacts for “Land” and “Water” components of the Project. As discussed in further detail below, this approach clearly segments the analysis of the Project into two parts that may individually have less than significant impacts but, when considered together, may have potentially significant impacts that are not disclosed in the DEIR.

5

Recirculation. Recirculation of a draft EIR is required when “significant new information” must be added to it prior to certification.<sup>9</sup> “Significant new information” requiring recirculation may include: 1) a new significant impact that would result from the project or from a new mitigation measure proposed to be implemented; 2) a substantial increase in the severity of a previously identified significant effect; 3) a feasible alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the environmental effects of the project but the project proponents decline to adopt it; or 4) a draft EIR that is so fundamentally and basically inadequate and conclusory in nature as to preclude meaningful public review.<sup>10</sup> In this case, the DEIR is deficient in a number of respects, as outlined in detail below. The

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<sup>5</sup> *Id.*

<sup>6</sup> See *Gentry v. City of Murrieta* (1995) 36 Cal.App.4<sup>th</sup> 1359, 1397; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296.

<sup>7</sup> CEQA Guidelines § 15126.4.

<sup>8</sup> CEQA Guidelines § 15378, subd. (a).

<sup>9</sup> CEQA Guidelines § 15088.5, subd. (a).

<sup>10</sup> *Id.*

extensive modifications that will be necessary to correct such deficiencies constitute “new significant information” warranting recirculation of the DEIR.

6 cont.

### **Executive Summary**

Pages ES-39 to ES-40, Mitigation Measure 3A.3-2a. As mitigation for the impact of the Land components of the project on federally-listed vernal pool invertebrates, the DEIR requires the future preparation of a detailed monitoring plan and development of reporting requirements. The DEIR’s failure to include a monitoring plan and reporting requirements constitutes an impermissible deferral of mitigation formulation. Without this information, there is no substantial evidence in support of the DEIR’s conclusion that impacts to vernal pool invertebrates would be reduced to a less-than-significant level after mitigation.

7

Page ES-107, Impact 3A.9-5. The Executive Summary table incorrectly lists Impact 3A.9-5 as “potential effects on groundwater recharge.” Impact 3A.9-5 is discussed on page 3A.9-45 of the DEIR as “potential exposure to 200-year (0.005 AEP) flood prior to implementation of SB 5.”

8

### **Chapter 1. Introduction and Statement of Purpose and Need**

Pages 1-17 and 18, Section 1.9, Documents Incorporated by Reference. The DEIR incorporates by reference a number of previously prepared environmental documents, including the Freeport Regional Water Project EIR/EIS, the Zone 40 Water Supply Master Plan EIR, and the Sacramento County General Plan General Plan Update Draft EIR. However, incorporation by reference is not appropriate for some of these documents. For example, the DEIR purports to rely on the analysis contained within the Freeport Regional Water Project EIR for portions of the Water component of the project, including the diversion of water from the Sacramento River and transport of that water up to the Vineyard Surface Water Treatment Plan (SWTP), as described on pages 1-17, 2-82 and 83 of the DEIR. Such a use conflicts with the CEQA Guidelines, which provide that incorporation by reference “is most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand.”<sup>11</sup> As the DEIR is relying on the Freeport Regional Water Project EIR for part of its analysis of the Project’s impacts and not merely for background purposes, incorporation by reference of this document is not appropriate, and the analysis contained within that document needs to be included within the body of the DEIR.

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### **Chapter 2. Alternatives**

General Comment. An EIR is required to consider a range of reasonable alternatives that feasibly attain most of the basic objectives of the project but avoid or

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<sup>11</sup> CEQA Guidelines § 15150, subd. (f).

substantially lessen any of the significant effects of the project.<sup>12</sup> The DEIR identifies significant air quality and noise impacts associated with locating sensitive land uses in proximity of high-volume roadways. The most obvious means of mitigating these impacts is to provide sufficient buffers and/or modify land uses near such roadways so that sensitive land uses are not located adjacent to such roadways. Thus, the DEIR needs to analyze an alternative land use plan that avoids locating sensitive land uses within proximity of high-volume roadways, as suggested in our attached NOP comment letter dated November 7, 2008. The DEIR should be revised to include such an alternative and be recirculated for additional public review.

10 cont.

Pages 2-82 and 83, Integration with Freeport Project Facilities. Please see our prior comments regarding Section 1.9 above.

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### **Section 3.1. Approach to the Environmental Analysis**

Page 3-2, Section 3.1.2. As discussed previously in our general comment regarding segmentation, the DEIR splits its analysis of Project impacts into separate impacts for "Land" and "Water" components of the Project. This approach divides the Project into two parts that may individually have less than significant impacts but, when considered together, have significant or potentially significant impacts that are not disclosed in the DEIR. The DEIR should be revised to consider the entire Project and not its individual components when evaluating the significance of environmental effects of the Project.<sup>13</sup>

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### **Section 3A.1. Aesthetics -- Land**

General Comment. The DEIR concludes that the Project's impacts on scenic vistas (Impact 3A.1-1), scenic resources within a designated scenic corridor (Impact 3A.1-2), and the existing visual character or quality of the site and its surroundings (Impact 3A.1-3) are significant and unavoidable in a conclusory fashion without any analysis to assist decision makers in comprehending the magnitude of the impact. The DEIR must include, at a minimum, visual simulations of the Project site based upon the 25 viewpoints used to document the existing visual setting in Exhibit 3A.1-1, pages 3A.1-3 to 16 of the DEIR.

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Page 3A.1-25, Mitigation Measure 3A.1-1. This mitigation measure relies upon the future submittal of a landscape plan to mitigate the impacts of the project's Land components on scenic vistas. The absence of the landscape plan constitutes an impermissible deferral of mitigation. With no landscape plan available for public review, it cannot be determined whether all feasible mitigation has been required.

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Pages 3A.1-27 to 29, Impact 3A.1-3. The DEIR proposes implementation of Mitigation Measure 3A.7-4a as mitigation for the impacts of the Land components of the

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<sup>12</sup> CEQA Guidelines § 15126.6, subd. (a).

<sup>13</sup> See CEQA Guidelines § 15378, subd. (a).

project on the existing visual character or quality of the site and its surroundings. That measure, as found on pages 3.A-7-32 and 33 of the DEIR, requires a seismic refraction survey. It is unclear how a seismic refraction survey mitigates the project's impacts on visual character. 15 cont.

Page 3A.1-30, Mitigation Measure 3A.1-4. This measure relies upon the future submittal of screen designs for construction staging areas to mitigate the short-term construction-related visual impacts of the project's Land components. The measure provides that screens may include, but are not limited to, berms or fences. However, without further information or illustrations of proposed screening methods, it is unknown whether the DEIR is requiring all feasible mitigation for this impact. 16

Pages 3A.1-31 to 33, Mitigation Measure 3A.1-5. The DEIR requires the future establishment of onsite outdoor lighting standards for incorporation into the Specific Plan's design guidelines and the future preparation and submittal of a lighting plan for offsite components as mitigation for light and glare impacts of the project's Land components. However, without more detailed information in the DEIR regarding the types of lighting proposed for offsite components, it is unknown whether all feasible mitigation for this impact has been proposed. 17

Conclusion re: Section 3A.1. As discussed above, this section of the DEIR needs to be revised to include additional analysis of aesthetics impacts and to provide further detail regarding proposed mitigation measures. The revised section must be recirculated for further public review. 18

### **Section 3B.1. Aesthetics -- Water**

Page 3B.1-17, Impact 3B.1-1. As discussed in our prior comments, the division of the analysis of project impacts into separate Land and Water components could potentially result in the failure to disclose significant impacts of the combined Land and Water components of the project. The DEIR concludes that Impact 3B.1-1, substantial adverse effect on a scenic vista, is less than significant for the proposed Water components of the project, but does not render a significance conclusion with respect to the combined impacts of the Land and Water components to scenic vistas. The DEIR should be revised to analyze the significance of the combined impact of Land and Water components of the Project on scenic vistas. 19

Pages 3B.1-19 and 20, Mitigation Measure 3B.1-2b. This measure requires the future preparation and submittal of landscape plans for each proposed structural facility site as mitigation for the impacts of the Water components of the project on the existing visual character of the surrounding area. With no landscape plans available for public review, there is no substantial evidence to support the DEIR's conclusion that visual impacts can be reduced to a less-than-significant level. 20

Pages 3B.1-21 and 22, Mitigation Measure 3B.1-3b. This mitigation requires the future preparation of a Lighting Master Plan for outdoor lighting sources associated with off-site water facilities. However, without further information regarding the details of such plans in the DEIR, there is no substantial evidence to support the DEIR's conclusion that impacts can be reduced to a less-than-significant level. 21

Conclusion re: Section 3B.1. As discussed above, this section of the DEIR needs to be revised to include additional analysis of the combined aesthetics impacts of Land and Water components of the Project and to provide further detail regarding proposed mitigation measures. 22

### **Section 3A.2. Air Quality -- Land**

Pages 3A.2-25 to 26, Analysis Methodology. Please see the attached comments from Rimpco and Associates, Inc. regarding the methodology used in the analysis of toxic air contaminant (TAC) impacts. As noted in those comments, the DEIR's use of the Sacramento Metropolitan Air Quality Management District (SMAQMD) screening criteria of 296 in a million cancer risk as a significance threshold is inconsistent with the SMAQMD's protocol for analysis of TAC exposure, which recommends a site-specific health risk assessment (HRA). Furthermore, as noted in our general comments regarding the adequacy of the environmental analysis, a specific plan EIR should not defer the proper project-level analysis of environmental impacts, in this case an HRA, until later phases because no further environmental review is required for residential projects implementing an adopted specific plan.<sup>14</sup> Therefore, the DEIR should be recirculated with a revised TAC analysis that conforms to the SMAQMD's protocol. 23  
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Page 3A.2-27 to 30, Impact 3A.2-1. What source of construction aggregate was assumed for assessing the project's construction air quality impacts? The EIR's analysis of construction air quality impacts should address the additional environmental impacts of not having a local source of aggregate to meet anticipated construction aggregate needs. Alternatively, the DEIR could address air quality benefits and the reduction in regional vehicle miles traveled (VMT) associated with having a local source of aggregate. For instance, if the Teichert Quarry is not approved and future aggregate needs were met by other Teichert aggregate mining facilities located in Yolo, Yuba, and Placer counties, there would be a four-fold increase in VMT associated with aggregate transport. The DEIR should address the additional air quality impacts of increased aggregate transport VMT, as well as the impacts of aggregate transport on the individual communities that are affected by such truck traffic. 25

Pages 3A.2-30 to 40, Mitigation Measures 3A.2-1a-h. The DEIR relies upon a variety of mitigation measures to reduce construction NOx emissions associated with the Land components of the Project to a less-than-significant level. These measures include requiring that contractors implement measures recommended by the SMAQMD (mitigation measures 3A.2-1a, d, and f) and the payment of an offsite mitigation fee to 26

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<sup>14</sup> See Cal. Government Code § 65457.

offset construction emissions (mitigation measures 3A.2-1b and e). However, the DEIR provides no analysis or other substantial evidence in support of the conclusion that such mitigation will reduce construction NOx emissions to below the SMAQMD's 85 pound per day threshold. For instance, there is no guarantee that contractors will actually implement the SMAQMD's recommended measures. Furthermore, there has been no demonstration that payment of an offsite mitigation fee actually results in the necessary regional reductions in NOx emissions to reduce the project's net construction NOx emissions to below the SMAQMD's threshold.

26 cont.

Page 3A.2-43, Mitigation Measure 3A.2-2. The DEIR relies upon the project's Air Quality Mitigation Plan (AQMP), as provided in Appendix C2 of the DEIR, as mitigation for the operational emissions from the Land components of the project. However, some of the measures in the proposed AQMP are dependent on adjacent development to succeed. For example, the proposed Transit Corridor requires that the adjacent Easton Place development occur in order to provide the necessary connectivity to existing bus and light rail lines. The DEIR should disclose the reduced degree to which the AQMP would mitigate air quality impacts (and the associated increase in impact significance with mitigation) should the required adjacent development not occur.

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Pages 3A.2-50, Impact 3A.2-4. Please see the attached comments from Rimpo and Associates, Inc. regarding the DEIR's analysis of impacts for exposure of sensitive receptors to operational emissions of TACs. As detailed in those comments, the DEIR relies upon inappropriate thresholds of significance, uses methodology that is inconsistent with the SMAQMD's recommended protocol, and inappropriately employs 2010 emission factors that grossly overstate potential impacts. Thus, as discussed previously, the DEIR improperly defers the analysis of TAC impacts and fails to provide decision makers with accurate information regarding the Project's environmental consequences. Also, critical information necessary to analyze the adequacy of the DEIR's conclusions has been omitted from the DEIR and its appendices. Furthermore, as requested in our attached NOP comment letter, the DEIR should consider a revised land use plan that provides sufficient buffers from major roadways and sources of TAC emissions to ensure that no significant exposure occurs. Accordingly, the analysis of this impact should be revised to address these concerns and be recirculated for public review.

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Pages 3A.2-57 and 58, Impact 3A.2-5. Regarding the potential for exposure of sensitive receptors to construction-generated emissions of naturally occurring asbestos (NOA), the DEIR concedes that more than half of the Project site is located in "areas moderately likely to contain NOA" but does not include any analysis regarding the actual presence or absence of NOA. Rather, the required site analysis is being deferred until after Project approval, as discussed below with respect to Mitigation Measure 3A.2-5. The DEIR's absence of information regarding the presence or absence of NOA on the site leaves decision makers without critical information regarding the environmental consequences of the Project.<sup>15</sup> Therefore, the DEIR should be revised to include, at a minimum, some site analysis of areas deemed likely to contain NOA.

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<sup>15</sup> See CEQA Guidelines § 15151.

Pages 3A.2-58 and 59, Mitigation Measure 3A.2-5. As mitigation for construction-generated emissions of NOA, the DEIR requires a site investigation and, if necessary, the preparation and implementation of an Asbestos Dust Control Plan. However, the DEIR provides no substantial evidence in support of its conclusion that such a plan, if implemented, would reduce construction-related NOA impacts to a less-than-significant level. 32

Conclusion re: Section 3A.2. As discussed above, this section needs to be revised to provide an adequate analysis of air quality impacts, including TAC exposure, construction aggregate transport emissions, and NOA exposure, as well as to provide additional detail regarding proposed air quality mitigation measures. The revised analysis must be recirculated for public review. 33

### **Section 3B.2. Air Quality – Water**

Pages 3B.2-6 and 7, Impact 3B.2-1. Please see our previous comments regarding Impact 3A.2-1. 34

Pages 3B.2-11 and 12, Impact 3B.2-2. As discussed in our prior comments, the division of the analysis of project impacts into Land and Water components could potentially result in the failure to disclose significant impacts of the combined Land and Water components of the Project. The DEIR concludes that Impact 3B.2-2, long-term operational emissions of ROG and NOx, is less than significant for the proposed Water components of the project, but does not render a significance conclusion with respect to the combined impacts of the Land and Water components relative to regional operational emissions of ROG and NOx. Therefore, the DEIR analysis should be revised to address the combined impacts of Land and Water components of the Project. 35

Page 3B.2-12 and 13, Impact 3B.2-3. The DEIR concludes that Impact 3B.2-3, exposure of sensitive receptors to short- and long-term emissions of TACs, is less than significant for the proposed Water components of the project, but does not render a significance conclusion with respect to the combined impacts of the Land and Water components relative to TAC exposure. The DEIR should be revised to analyze the significance of the combined TAC impact of Land and Water components of the Project. 36

Conclusion re: Section 3B.2. As discussed above, this section of the DEIR needs to be revised to include additional analysis of the combined air quality impacts of Land and Water components of the Project. 37

### **Section 3A.3. Biological Resources – Land**

Pages 3A.3-31 to 51, Mitigation Measures 3A.3-1a and b. As mitigation for the impact of the project's Land components on waters of the U.S. and waters of the state, the DEIR relies on the future submittal of a draft wetland mitigation and monitoring plan, 38



stormwater drainage plans, and erosion and sediment control plans. A draft version of these plans should have been prepared in advance and included in the DEIR. Without such information, it is unknown whether the DEIR contains all feasible mitigation necessary to reduce this impact to the extent required by law.

38 cont.

Pages 3A.3-51 and 52, Mitigation Measure 3A.3-2a. This mitigation measure, which pertains to Swainson's hawk impacts, differs from what is presented as Mitigation Measure 3A.3-2a in the Executive Summary table, pages ES-39 and 40 of the DEIR, which pertains to vernal pools. The measure is listed in the Executive Summary table as "Mitigation Measure 3A.3-2b."

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Pages 3A.3-52 to 54, Mitigation Measure 3A.3-2b. This mitigation measure is labeled "Mitigation Measure 3A.3-2c" in the Executive Summary table, pages ES-41 to 43 of the DEIR. To mitigate the impact of the Land components of the project on Swainson's hawk, this measure requires the future preparation and implementation of a Swainson's hawk mitigation plan. The DEIR should at a minimum include a draft of this plan. Without this information, there is no substantial evidence in support of the DEIR's conclusion that impacts to Swainson's hawk would be reduced to a less-than-significant level after mitigation.

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Pages 3A.3-75 and 76, Impact 3A.3-5. The DEIR estimates the acres of blue oak woodland habitat that would potentially be affected by the Project, but does not include any information regarding the number and sizes of individual oak trees that would be affected by the Project. Instead, the preparation of a tree survey is being deferred until after Project approval, as discussed below with respect to Mitigation Measure 3A.3-5. The DEIR's absence of information regarding the actual magnitude of the Project's impacts on individual oak trees deprives decision makers of critical information regarding the environmental consequences of the Project.<sup>16</sup> Therefore, the DEIR should be revised to include a tree survey that identifies how many trees would be removed due to the Project and the sizes of those trees.

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Pages 3A.3-76, 83 to 87, Mitigation Measure 3A.3-5. As part of the mitigation for impact of the project's Land components on blue oak woodland and individual oak trees, the DEIR recommends the future preparation of a tree survey and the development and implementation of an oak woodland mitigation plan. The DEIR's failure to include, at a minimum, a tree survey and a draft of mitigation plan constitutes impermissible deferral of mitigation. Absent this information, it is unknown whether the DEIR has required all feasible mitigation for this significant and unavoidable impact.

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Pages 3A.3-88 and 93, Impact 3A.3-6. As discussed in our prior comments, the division of the analysis of project impacts into Land and Water components could potentially result in the failure to disclose significant impacts of the combined Land and Water components of the project. The DEIR concludes that Impact 3A.3-6, potential interference with wildlife movement, is less than significant for the proposed Land

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<sup>16</sup> See CEQA Guidelines § 15151.

components of the project, but does not render a significance conclusion with respect to the combined impacts of the Land and Water components relative to this impact. Thus, the DEIR should be revised with an analysis of the significance of the combined impact of Land and Water components of the Project on wildlife movement. 44 cont.

Conclusion re: Section 3A.3. For the reasons cited above, this section must be revised to provide additional analysis of biological resources impacts, including impacts to oak trees and wildlife movement, as well as to provide additional detail regarding proposed mitigation measures. 45

### **Section 3B.3. Biological Resources – Water**

Pages 3B.3-38 and 39, Mitigation Measure 3B.3-1a. Our previous comments regarding Mitigation Measure 3A.3-1a also apply to Mitigation Measure 3B.3-1a. 46

### **Section 3A.4. Climate Change – Land**

Pages 3A.4-13 to 23, Impact 3A.4-1. What source of construction aggregate was assumed for assessing the project's construction-related climate change impacts? The EIR's analysis of construction-related climate change impacts should address the additional environmental impacts of not having a local source of aggregate to meet anticipated construction aggregate needs. Alternatively, the DEIR could address the reduction in regional VMT and associated climate change impacts of having a local source of aggregate. As discussed previously, if the Teichert Quarry is not approved and future aggregate needs were met by other Teichert aggregate mining facilities located in Yolo, Yuba, and Placer counties, there would be a four-fold increase in VMT associated with aggregate transport. The DEIR should address the additional climate change impacts of increased aggregate transport VMT, as well as the impacts of aggregate transport on the individual communities that are affected by such truck traffic. 47  
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Pages 3A.4-26 to 29, Mitigation Measures 3A.4-2a and b. As mitigation for the operational impacts of the project's Land components on climate change, the DEIR defers until future environmental review the analysis of potential greenhouse gas emissions associated with each increment of new development on the project site and the selection of specific mitigation measures for such impacts. The DEIR should be revised to include as much of this information as feasible so that the decision-makers and public can be assured that the project includes all feasible mitigation. 49

Conclusion re: Section 3A.4. As discussed above, this section of the DEIR needs to be revised to include additional analysis of the climate change impacts of aggregate transport and to include further details regarding proposed mitigation. 50

### **Section 3B.4. Climate Change – Water**

Pages 3B.4-3 to 5, Impact 3B.4-1. Please see our previous comments concerning Impact 3A.4-1. 51

Pages 3B.4-6 to 7, Mitigation Measure 3B.4-1b. The DEIR relies upon the future development and implementation of an Offsite Water Facilities Climate Action Plan and Greenhouse Reduction Strategy to mitigate the climate change impacts of the project's Water components. The DEIR should be revised to include a draft of this proposed plan to ensure that all feasible measures are being considered and required for the Project. 52

### **Section 3A.6. Environmental Justice – Land**

Pages 3A.6-6 and 7, Impact 3A.6-1. As discussed in our prior comments, the division of the analysis of project impacts into Land and Water components could potentially result in the failure to disclose significant impacts of the combined Land and Water components of the project. The DEIR concludes that Impact 3A.6-1, potential effects on minority populations, is less than significant for the proposed Land components of the project, but does not render a significance conclusion with respect to the combined impacts of the Land and Water components to minority populations. 53

Pages 3A.6-7 and 8, Impact 3A.6-2. The DEIR concludes that Impact 3A.6-2, potential effects on low-income populations, is less than significant for the proposed Land components of the project, but does not render a significance conclusion with respect to the combined impacts of the Land and Water components to low-income populations. Therefore, the DEIR should be revised to address the combined impact of the Land and Water components of the Project on low-income populations. 54

Conclusion re: Section 3A.6. As discussed above, this section of the DEIR needs to be revised to include additional analysis of the combined environmental justice impacts of Land and Water components of the Project. 55

### **Section 3B.6. Environmental Justice -- Water**

Page 3B.6-3, Impact 3B.6-1. As discussed in our prior comments, the division of the analysis of project impacts into Land and Water components could potentially result in the failure to disclose significant impacts of the combined Land and Water components of the project. The DEIR concludes that Impact 3B.6-1, potential effects on minority populations, is less than significant for the proposed Water components of the project, but does not render a significance conclusion with respect to the combined impacts of the Land and Water components to minority populations. 56

Pages 3B.6-3 and 4, Impact 3B.6-2. The DEIR concludes that Impact 3B.6-2, potential effects on low-income populations, is less than significant for the proposed Water components of the project, but does not render a significance conclusion with respect to the combined impacts of the Land and Water components to low-income populations. 57

Conclusion re: Section 3B.6. As discussed above, this section of the DEIR needs to be revised to include additional analysis of the combined environmental justice impacts of Land and Water components of the Project. 58

### **Section 3A.7. Geology, Soils, Minerals, and Paleontological Resources – Land**

Page 3A.7-13, Fifth Paragraph. The DEIR states that land south of the SPA is designated MRZ-3 under the Surface Mining and Reclamation Act (SMARA). However, the DEIR should also note that the State Mining and Geology Board (SMGB) has accepted a petition to designate the Teichert Quarry site as MRZ-2, i.e., a known source of significant mineral resources, and is in the process of finalizing that designation. Please refer to the attached information from the SMGB concerning the pending MRZ-2 designation for Teichert Quarry. The DEIR should be revised to reflect this information. Also, the DEIR should analyze the Project’s impacts on significant mineral resources in the vicinity of the Project site. 59  
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Page 3A.7-26, Impact 3A.7-1. The DEIR concludes that structures on the Project site could be subject to seismic ground shaking, a potentially significant impact. However, the DEIR notes that geotechnical reports have not been prepared for the entire Project site, and 3 of the 5 available geotechnical reports do not conform to the current California Building Code (CBC). The preparation of geotechnical reports has been deferred until after Project approval, as also discussed below with respect to Mitigation Measure 3A.7-1. In the absence of geotechnical reports for the entire Project site, the DEIR’s blanket “potentially significant” conclusion regarding potential seismic ground shaking hazards does little to inform decision makers regarding the actual environmental consequences of the Project with respect to this impact.<sup>17</sup> Because no additional CEQA analysis will be required for subsequent residential development consistent with the Specific Plan, the DEIR should include as much pertinent information as reasonably feasible.<sup>18</sup> Therefore, the DEIR should be revised to incorporate the results of current geotechnical reports for the entire Project site. 61  
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Page 3A.7-27, Mitigation Measure 3A.7-1a. The DEIR relies upon the future submittal of site-specific geotechnical reports for each development phase to mitigate seismic risks associated with the Land components of the Project to a less-than-significant level. Although the measure lists topics on which the geotechnical report should make recommendations, no specific measures or performance standards are provided. Absent such information, there is no substantial evidence to support the DEIR’s conclusion that this impact can be feasibly reduced to a less-than-significant level. 63

Pages 3A.7-32 and 33, Mitigation Measure 3A.7-4a. As mitigation for significant impacts of the Land components of the Project relative to geologic hazards of 64

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<sup>17</sup> See CEQA Guidelines § 15151.

<sup>18</sup> See Cal. Government Code § 65457 and CEQA Guidelines § 15151.

construction in bedrock and rock outcrops, the DEIR requires the future preparation of a seismic refraction survey and implementation of the measures recommended by the geotechnical engineer. The DEIR does not specify the types of measures to be used nor does it provide the necessary performance standards to ensure that such impacts would ultimately be mitigated to a less-than-significant level as the DEIR concludes. Therefore, the DEIR should be revised to include this information.

64 cont.

Conclusion re: Section 3A.7. For the reasons discussed above, this section of the DEIR needs to be revised to include additional analysis regarding the Project's impacts on significant mineral resources and seismic hazards and to provide further details regarding proposed mitigation measures.

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### **Section 3B.7. Geology, Soils, Minerals, and Paleontological Resources – Water**

Pages 3B.7-11 and 12, Mitigation Measure 3B.7-1a. Please see our prior comments regarding Mitigation Measure 3A.7-1a, which also apply to Mitigation Measure 3B.7-1a.

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### **Section 3A.8. Hazards and Hazardous Materials – Land**

Pages 3A.8-20 and 21, Impact 3A.8-2. The DEIR concludes that the Project could result in a potentially significant impact relative to “potential human health hazards from possible exposure of existing on-site hazardous materials.” The DEIR bases its conclusion on the fact that Phase I environmental site assessments have been done for most, but not all, of the Project site. The preparation of Phase I and, if necessary, Phase II site assessments has been deferred until after Project approval, as also discussed below with respect to Mitigation Measure 3A.8-2. In the absence of geotechnical reports for the entire Project site, the DEIR’s blanket “potentially significant” conclusion regarding potential hazardous materials does little to inform decision makers regarding the actual environmental consequences of the Project with respect to this impact.<sup>19</sup> Because no additional CEQA analysis will be required for subsequent residential development consistent with the Specific Plan, the DEIR should include as much pertinent information as reasonably feasible.<sup>20</sup> Therefore, the DEIR should be revised to incorporate the results of Phase I site assessments for the entire Project site.

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Pages 3A.8-21 and 22, Mitigation Measure 3A.8-2. As mitigation for significant impacts associated with the potential exposure of construction workers and future residents to hazardous materials, the DEIR requires the future preparation of Phase I and, if necessary, Phase II environmental site assessments and the implementation of recommended measures found in such assessments. Without knowing the precise location and extent of such contamination, there is no assurance that the risks associated with such hazardous materials can be reduced to an acceptable level. By deferring the submittal of this critical information until after the approval of the Project, the DEIR

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<sup>19</sup> See CEQA Guidelines § 15151.

<sup>20</sup> See Cal. Government Code § 65457 and CEQA Guidelines § 15151.

provides no substantial evidence in support of its conclusion that such impacts can be feasibly reduced to a less-than-significant level.

70 cont.

Pages 3A.8-30 and 31, Mitigation Measure 3A.8-5. This mitigation measure relies upon the future preparation and implementation of a blasting safety plan to mitigate the risk of blast-related injury to construction workers and the general public to a less-than-significant level. At a minimum, the DEIR should provide a draft of such a plan for public review so that there is some evidence to support its conclusion that blasting impacts can feasibly be reduced to less than significant. The DEIR's failure to include this information constitutes an impermissible deferral of mitigation.

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Pages 3A.8-34 and 35, Mitigation Measure 3A.8-7. The DEIR requires the future preparation and implementation of a vector control plan as mitigation for significant public health hazards from mosquitoes associated with public water features proposed as part of the Land components of the Project. A copy of the vector control plan should be included in the DEIR. Without identifying the specific measures and performance standards to be incorporated into the vector control plan, there is no substantial evidence to support the DEIR's conclusion that mosquito-related public health hazards can be reduced to a less-than-significant level.

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Conclusion re: Section 3A.8. As discussed above, this section of the DEIR needs to be revised to include additional analysis regarding the hazardous materials impacts and to provide further details regarding several proposed mitigation measures.

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### **Section 3A.9. Hydrology and Water Quality -- Land**

Page 3A.9-45 and 46, Impact 3A.9-6. As discussed in our prior comments, the division of the analysis of Project impacts into Land and Water components could potentially result in the failure to disclose significant impacts of the combined Land and Water components of the Project. The DEIR concludes that Impact 3A.9-6, potential effects on groundwater recharge, is less than significant for the proposed Land components of the project, but does not render a significance conclusion with respect to the combined impacts of the Land and Water components on groundwater recharge. Therefore, the DEIR should be revised to include an analysis of the significance of the combined impact of Land and Water components of the Project on groundwater recharge.

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### **Section 3B.9. Hydrology and Water Quality -- Water**

Page 3B.9-26, Mitigation Measure 3B.9-3a. As mitigation for the alteration of drainage patterns associated with the Water components of the Project, the DEIR relies upon the future preparation and implementation of a drainage plan for the offsite water facility water treatment plant (WTP) that would ultimately be selected for the Project to reduce impacts to a less-than-significant level. The drainage plan is required to include additional analysis of potential options for onsite detention. However, without further information regarding the location of the proposed WTP, it is unclear whether such a

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future drainage plan can feasibly reduce the project's impacts on drainage patterns to a less-than-significant level. At a minimum, the DEIR should include a draft drainage plan based on the conceptual WTP layout provided on Exhibit 2-27, page 2-87 of the DEIR and demonstrate that the proposed measures can reduce impacts to less than significant.

75 cont.

Pages 3B.9-28 to 30, Impact 3B.9-4. The DEIR concludes that the Water components of the Project would have a less-than-significant impact to flow within the Sacramento River. The DEIR notes that the Project would "divert water currently assigned and diverted from an existing upstream user and would not change the amount of water diverted, only the location of the point of diversion and timing."<sup>21</sup> This conclusion appears to be based on the assumption that the Natomas Central Mutual Water Company (NCMWC) is actually diverting the maximum amount that it can divert under its existing appropriative water rights. However, as noted on page 2-82 of the DEIR, NCMWC has not been diverting its maximum contract amounts under its appropriative water rights and, thus, has surplus surface water supplies that can transferred to the City of Folsom to supply the Project. CEQA provides that the environmental setting, i.e., the baseline against which project impacts should be assessed, is normally the physical conditions that exist at the time of commencement of preparation of an EIR.<sup>22</sup> In *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4<sup>th</sup> 310, the California Supreme Court held that a CEQA analysis for a proposed refinery project was deficient because it had used the maximum permitted capacity under existing permit limits rather than actual conditions as the environmental baseline for its analysis. In this case, the DEIR uses the incorrect baseline of what NCMWC is permitted to divert from the Sacramento River instead of what NCMWC is actually diverting from the river. When the correct environmental setting is used, the Project would result in additional diversions from the Sacramento River that should be analyzed in the DEIR. These additional diversions may constitute a new significant impact that requires recirculation of the DEIR.

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Conclusion re: Section 3B.9. For the reasons discussed above, this section of the DEIR needs to be revised to use the appropriate environmental baseline in assessing the impacts of proposed diversions from the Sacramento River and to provide further details regarding drainage mitigation.

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### **Section 3A.10. Land Use and Agricultural Resources -- Land**

Pages 3A.10-41 and 42, Impact 3A.10-3. The DEIR discusses cancelation as an option for complying with the Williamson Act. However, given the difficulty in making the required cancelation findings under the Williamson Act<sup>23</sup> and the high likelihood of a successful legal challenge to such findings, the DEIR should also consider the alternative of delaying project development until after the nonrenewal period has run. As noted in

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<sup>21</sup> DEIR, p. 3B.9-30.

<sup>22</sup> CEQA Guidelines § 15125, subd. (a); see also *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4<sup>th</sup> 310.

<sup>23</sup> Government Code § 51282.

the DEIR, notices of nonrenewal have already been filed for the Williamson Act contracts on the Project site and those contracts will expire in 2014 and 2016. 79 cont.

Pages 3A.10-42 and 43, Impact 3A.10-4. The DEIR concludes that the Project may lead to the cancelation of Williamson Act contracts on surrounding properties. This conclusion is unlikely given the difficulty in making the required cancelation findings under the Williamson Act.<sup>24</sup> A more realistic scenario would be that property owners of surrounding properties would file notices of nonrenewal and wait an additional nine years and for the nonrenewal period to run. Also, on page 3A.10-43 of the DEIR, the statement that the Teichert Quarry project would require a Williamson Act cancelation is inaccurate. There are no active Williamson Act contracts on the Teichert Quarry project site, as the prior contract expired in 2008. 80 81

Conclusion re: Section 3A.10. As discussed above, this section of the DEIR needs to be revised to correct erroneous information concerning surrounding Williamson Act contracts and to provide additional discussion of options concerning the Williamson Act contracts on the Project site. 82

### **Section 3B.10. Land Use and Agricultural Resources -- Water**

Pages 3B.10-17 to 19, Impact 3B.10-3. As discussed in our prior comments, the division of the analysis of project impacts into Land and Water components could potentially result in the failure to disclose significant impacts of the combined Land and Water components of the Project. The DEIR concludes that Impact 3B.10-3, conversion of important farmland to nonagricultural uses, is less than significant for the proposed Land components of the project, but does not render a significance conclusion with respect to the combined impacts of the Land and Water components on all types of agricultural land. Therefore, the DEIR should be revised to address the significance of the combined impact of Land and Water components of the Project on agricultural land. 83

Pages 3B.10-19 and 20, Impact 3B.10-4. The DEIR discusses cancelation as an option for complying with the Williamson Act, but does not address the other possibility of filing notices of nonrenewal and delaying project development until after the nine-year nonrenewal period has run. 84

Pages 3B.10-20 and 21, Mitigation Measure 3B.10-4. As mitigation for “potential temporary disruptions to existing agricultural operations,” the DEIR proposes mitigation requiring the restoration of affected agricultural lands to pre-project conditions and the payment of compensation to farmers for the loss of crops and associated revenues. How does this mitigation reduce temporary disruptions to existing agricultural operations to a less-than-significant level? The restoration of affected agricultural lands merely ensures that the disruption to agricultural operations is temporary. Moreover, the payment of compensation to farmers for losses does nothing to mitigate the actual physical disruption to agricultural operations; it merely compensates farmers for their lost revenue. 85

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<sup>24</sup> See Government Code §51282.



Conclusion re: Section 3B.10. As discussed above, this section of the DEIR must be revised to analyze the combined agricultural impacts of the Land and Water components of the Project, to provide additional discussion regarding Williamson Act contracts, and to address concerns regarding the adequacy of agricultural mitigation. 86

### **Section 3A.10. Noise -- Land**

Page 3A.11-5, Ambient Noise Survey. Please refer to the comments provided in the attached letter from Bollard Acoustical Consultants, Inc. (BAC). As noted in the BAC comments, the DEIR does not provide distances to the centerlines of nearby roadways from the ambient noise measurement locations listed in Table 3A.11-1. The DEIR should be revised to include this information. 87

Pages 3A.11-7 to 10, Traffic Noise. Please refer to the comments provided in the attached letter from BAC regarding traffic noise. As indicated in those comments, Table 3A.11-2 should be modified to include an additional column that provides the modeled distance for each segment. Also, please refer to BAC's comments regarding whether the traffic noise measurement results presented in Table 3A.11-1 were used to verify the accuracy of the FHWA model in predicting existing traffic noise levels in the project area. Moreover, as noted in BAC's comments, the use of the FHWA model's "hard" versus "soft" acoustical settings in assessing existing traffic noise results in a gross mischaracterization of cumulative traffic noise exposure that may have resulted in the identification of significant impacts where none would occur. This error constitutes "significant new information"<sup>25</sup> that would trigger recirculation. Therefore, the DEIR should be revised to use the correct FHWA model inputs and be recirculated for public review. 88  
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Pages 3A.11-36 to 43, Impact 3A.11-4. Please refer to the attached comments from BAC regarding this impact. As noted in BAC's comments, the traffic noise levels shown in Table 3A.11-18 should be rerun using the appropriate "soft" setting in the FHWA model. Because the use of the incorrect model inputs may have resulted in the identification of significant impacts where none would occur, the revised analysis should be recirculated for public review. 91

Pages 3A.11-50 and 51, Impact 3A.11-7. Please see the attached comments from BAC regarding this impact. As noted in those comments, the DEIR does not provide the distances to the 60 dBA Ldn contours for existing and future conditions with the project. Also, the FHWA model should be rerun with the "soft" acoustical setting, as discussed in further detail in BAC's comments. Because the use of the incorrect model inputs may have resulted in the identification of significant impacts where none would occur, the revised analysis should be recirculated for public review. 92  
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<sup>25</sup> See CEQA Guidelines § 15088.5, subd. (a).

Conclusion re: Section 3A.11. For the reasons outlined above, this section of the DEIR needs to be revised to better describe the existing noise setting and to provide a technically adequate analysis of traffic noise impacts. 94

#### **Section 3A.15. Traffic and Transportation -- Land**

General Comment. We will be submitting comments on the traffic section under separate cover. 95

#### **Chapter 4. Other Statutory Requirements**

Pages 4-23 to 26, Land Use Compatibility with High-Volume Arterial Roadways. The DEIR's analysis of cumulative TAC impacts incorrectly looks at the increment of impact associated with the addition of trucks from three proposed aggregate mining operations to roads on or in the vicinity of the proposed Project site. This approach runs counter to CEQA, which requires the consideration of whether a project's incremental impacts are "cumulatively considerable" when viewed in conjunction with other past, present, or reasonably foreseeable future projects producing related or cumulative effects.<sup>26</sup> In this case, traffic associated with other cumulative development, such as the three aggregate mining operations, should have been included as part of the cumulative baseline used for assessing whether the Project's contribution is "cumulatively considerable." In other words, the DEIR should be addressing the Project's incremental contribution to cumulative impacts, not the incremental contribution of the three aggregate mining operations. 96

Please also see the attached comments from Rimpo and Associates, Inc. regarding the DEIR's analysis of TAC exposure. As detailed in those comments, the DEIR relies upon inappropriate thresholds of significance, uses methodology that is inconsistent with the SMAQMD's recommended protocol, and inappropriately employs 2010 emission factors that grossly overstate potential impacts. Furthermore, critical information necessary to analyze the adequacy of the DEIR's conclusions has been omitted from the DEIR and Appendix C. For these reasons, the TAC analysis should be rerun using the correct protocol and emission factors. 97

Pages 4-24 to 26, Cumulative Mitigation Measure AIR-1-Land. Cumulative Mitigation Measure AIR-1-Land requires that the three aggregate mining operators voluntarily implement "mitigation measures" to reduce cumulative TAC exposure on the Project's affected sensitive receptors. These measures include increasing setback distances, tree planting, and the installation of air filtration and HVAC systems. The DEIR concludes that these voluntary measures would be sufficient to reduce this impact to less than significant. However, voluntary mitigation does not comply with CEQA. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments.<sup>27</sup> 98

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<sup>26</sup> CEQA Guidelines § 15130, subd. (a).

<sup>27</sup> CEQA Guidelines § 15126.4, subd. (a)(2).

If the quarry project applicants decline to implement the recommended voluntary “mitigation,” the DEIR concludes that Cumulative Mitigation Measure AIR-1-Land would still reduce the significant impact related to exposure of project-generated sensitive receptors to emissions of TACs from quarry truck traffic to a less-than-significant level because the City “may” adopt truck route restrictions. However, there is no substantial evidence to support the DEIR’s conclusion that truck route restrictions, if legally feasible, would reduce this impact to a less-than-significant level. There is no discussion regarding what sort of truck route restrictions would be proposed and how such restrictions would mitigate impacts. Also, the imposition of truck route restrictions would result in the redistribution of truck traffic to other roadways that could result in new significant traffic, noise, air quality, climate change, and other environmental impacts that are not addressed in the DEIR. If a mitigation measure would result in one or more significant effects in addition to those that would be caused by the project as proposed, the effects of that mitigation measure must be discussed in the EIR.<sup>28</sup> Therefore, the DEIR should be revised to address any additional significant environmental effects that would occur with the City’s proposed implementation of truck route restrictions.

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Pages 4-47 to 51, Long-Term Exposure of Sensitive Receptors to Increased Traffic Noise Levels. The DEIR’s analysis of cumulative traffic noise impacts incorrectly looks at the increment of impact associated with the addition of trucks from three proposed aggregate mining operations to roads on or in the vicinity of the proposed Project site. This approach conflicts with CEQA’s requirement that an EIR consider whether a project’s incremental impacts are “cumulatively considerable” when viewed in conjunction with other past, present, or reasonably foreseeable future projects producing related or cumulative effects.<sup>29</sup> In this case, the three aggregate mining operations are not the “project” under consideration in the DEIR. Therefore, the three aggregate mining operations should have been included as part of the cumulative baseline used for assessing whether the Project’s contribution is “cumulatively considerable.”

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Pages 4-48 to 50, Table 4-8. Please refer to the attached comments from BAC regarding the DEIR’s analysis of cumulative traffic noise exposure. As noted in BAC’s comments, the information presented in Table 4-8 was based on the use of the incorrect “hard” acoustical setting rather than the “soft” setting that is more appropriate for the project area. Also, as discussed in further detail in BAC’s comments, the data presented in Table 4-8 do not match the data for the same scenarios presented in Table 3A.11-19 for some of the modeled roadway segments. For the reasons outlined in BAC’s comments, the DEIR’s analysis of cumulative traffic noise impacts should be revised and recirculated for public review.

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Page 4-51, Compatibility of Sensitive Land Uses with the Ambient Noise Environment. Please see the attached comments from BAC regarding this analysis. As

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<sup>28</sup> CEQA Guidelines § 15126.4, subd. (a)(1)(D); *Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.

<sup>29</sup> CEQA Guidelines § 15130, subd. (a).

noted in BAC's comments, the projected traffic noise contours presented in the DEIR were generated using the FHWA model's "hard" setting instead of the more appropriate "soft" setting, which results in an overestimation of the location of the 60 dB Ldn noise contour. Accordingly, the traffic noise modeling results should be rerun using the appropriate "soft" setting. Also, as discussed in our prior comments concerning the DEIR's analysis of cumulative traffic noise impacts, the DEIR incorrectly looks at the increment of impact associated with the addition of trucks associated with three proposed aggregate mining operations to roadways on and in the vicinity of the Project site. This traffic should have been incorporated into the cumulative baseline against which the significance of the Project's impacts is assessed.

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Pages 4-51 to 53, Cumulative Mitigation Measure Noise-1-Land. As discussed in our prior comments concerning the DEIR's analysis of cumulative traffic noise impacts, the DEIR incorrectly looks at the increment of impact associated with the addition of trucks associated with three proposed aggregate mining operations to roadways on and in the vicinity of the Project site. This traffic should have been incorporated into the cumulative baseline against which the significance of the Project's impacts is assessed. For this reason, no mitigation would be required for such "impacts" of the aggregate mining operations as part of the Project's EIR. Rather, the CEQA environmental documentation prepared for each aggregate mining project would be required to assess each project's individual and cumulative impacts and provide mitigation for any significant impacts of that project.

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Cumulative Mitigation Measure Noise-1-Land requires that the three aggregate mining operators voluntarily implement "mitigation measures" to reduce cumulative traffic noise impacts on the Project's affected sensitive receptors. These measures include soundwalls/berms, the use of rubberized asphalt on roadway segments, and upgrading windows to achieve interior noise standards. The DEIR concludes that these voluntary measures would be sufficient to reduce this impact to less than significant. However, voluntary mitigation does not comply with CEQA. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments.<sup>30</sup>

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Alternatively, should the quarry project applicants decline to implement the recommended voluntary mitigation, the DEIR concludes that Cumulative Mitigation Measure Noise-1-Land would reduce the significant impact related to project-generated sensitive receptors to noise from increased traffic levels generated by quarry truck trips to a less-than-significant level because the City "may" adopt truck route restrictions. There is no substantial evidence to support the DEIR's conclusion that truck route restrictions, if legally feasible, would reduce this impact to a less-than-significant level. There is no discussion regarding what sort of truck route restrictions would be proposed and how such restrictions would mitigate impacts. Furthermore, as discussed above, if a mitigation measure would result in one or more significant effects in addition to those that would be caused by the project as proposed, the effects of that mitigation measure

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<sup>30</sup> CEQA Guidelines § 15126.4, subd. (a)(2).

must be discussed in the EIR.<sup>31</sup> In this case, the imposition of truck route restrictions would result in the redistribution of truck traffic to other roadways that could result in new significant traffic, noise, air quality, climate change, and other environmental impacts that are not addressed in the DEIR. Therefore, the DEIR should be revised to address any additional significant environmental effects that would occur with the City's proposed implementation of truck route restrictions.

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Please also see the attached comments from BAC regarding this mitigation measure.

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Page 4-73, Third Paragraph. As discussed in our prior comments, the statement that the Teichert Quarry project would require cancelation of lands under Williamson Act contracts is not true. The previous Williamson Act contract on the Teichert Quarry property expired in 2008.

109

Conclusion re: Chapter 4. For the reasons discussed above, the cumulative impacts analysis needs to be revised to provide an adequate analysis of cumulative impacts related to TAC exposure and traffic noise, including any impacts stemming from the City's proposed TAC and noise mitigation, and to correct erroneous information concerning surrounding Williamson Act contracts.

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## Appendices

Appendix C. As indicated in the attached comments from Rimpo and Associates, Inc., critical information necessary to analyze the adequacy of the DEIR's conclusions has been omitted from Appendix C.

111

## Conclusion

As outlined above, the DEIR is flawed in numerous respects. The analysis of Project impacts is impermissibly segmented into Land and Water components. The DEIR fails to address a reasonable range of Project alternatives, including one that relocates sensitive receptors away from high-volume roadways that can generate significant noise or TAC impacts. Moreover, the DEIR fails to adequately analyze Project impacts related to aesthetics, air quality, biological resources, climate change, geology, hazardous materials, hydrology, noise, and cumulative impacts, in many cases by deferring critical analysis to subsequent stages of development that may not be subject to CEQA review. Similarly, the DEIR improperly defers mitigation formulation until after Project approval for at least 20 significant impacts discussed herein and possibly others not specifically enumerated. These deficiencies result in a DEIR that is "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded."<sup>32</sup> Thus, the revisions to the DEIR that are necessary to correct these

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<sup>31</sup> CEQA Guidelines § 15126.4, subd. (a)(1)(D); *Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.

<sup>32</sup> CEQA Guidelines § 15088.5, subd. (a)(4); *Mountain Lion Coalition v. Fish and Game Commission* (1989) 214 Cal.App. 3d 1043.

deficiencies constitute "significant new information" under CEQA, and the revised DEIR must be recirculated as required by CEQA Guidelines § 15088.5.

116 cont.

Thank you for the opportunity to provide our comments on the DEIR. Please note that these comments are only our initial comments. We will be submitting subsequent comments on the EIR, including comments pertaining to traffic, until the close of the final public hearing on the Project, as allowed by CEQA.<sup>33</sup> Please feel free to call if you have any questions or need further information regarding our comments.

117

Very truly yours,



John M. Taylor

Enclosures

cc: Jeff Starsky, Mayor  
Andy Morin, Vice-Mayor  
Kerri Howell, Council Member  
Steve Miklos, Council Member  
Ernie Sheldon, Council Member  
Kerry Miller, City Manager  
Evert Palmer, Assistant City Manager  
Bruce Cline, City Attorney  
David Miller, Community Development Director  
Steve Szalay, Interim County Executive  
Jimmie Yee, Sacramento LAFCo  
Susan Peters, Sacramento LAFCo  
Linda Budge, Sacramento LAFCo  
Steve Cohn, Sacramento LAFCo  
Christopher Tooker, Sacramento LAFCo  
Charles Rose, Sacramento LAFCo  
Gay Jones, Sacramento LAFCo  
Peter Brundage, Executive Officer of LAFCo  
Don Lockhart, Assistant Executive Officer of LAFCo  
Ardie Zahedani, Folsom South of 50 Property Owners Group  
Michael Smith, Teichert Aggregates

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<sup>33</sup> See Pub. Resources Code § 21177; *Galante Vineyards v. Monterey Peninsula Water Management District* (1997) 60 Cal.App.4<sup>th</sup> 1109, 1121.

Teichert-4-1 *The comment, made on behalf of client Teichert, Inc., states that the City is aware of the Teichert Quarry project, for which the City previously submitted comment letters. The comment states that Teichert's comments on this project are similar to the City's comments that were submitted on the Teichert project.*

The comment does not raise specific questions, significant environmental issues, or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

Teichert-4-2 *The comment quotes CCR Section 15151 of the State CEQA Guidelines (regarding sufficiency of analysis to enable intelligent decision making), and states that in some cases it is permissible to prepare a program-level analysis and defer more detailed analyses to "subsequent individual projects implementing the plan" (citing State CEQA Guidelines CCR Section 15152[a]). The comment further states that because PRC Section 65457 exempts specific plan projects from future CEQA review, all specific plan EIRs must be prepared at a "project" level rather than a "program" level.*

The commenter first cites State CEQA Guidelines CCR Section 15152 (which, in fact, specifically provides for the approach taken by the City in the analysis of the Folsom South of U.S. 50 Specific Plan project); the commenter then cites PRC Section 65457 out of context, claiming that because "future residential projects are exempt from CEQA," a project level of analysis must be performed rather than program level of analysis. The commenter then concludes with his belief that all specific plan EIRs (apparently regardless of size, location, or duration of implementation, throughout the State of California) must be prepared as project-level EIRs rather than program-level EIRs in order to ensure an "adequate" level of analysis. The commenter's arguments are without merit and are not consistent with the State CEQA Guidelines or the California Government Code.

CCR Section 15152 of the State CEQA Guidelines pertains to "tiering"—the process whereby an EIR is prepared using an analysis of general matters contained in a broad EIR, the analysis of which is then used in later EIRs or negative declarations/mitigated negative declarations on narrower projects. In the tiering process, the later EIR or negative declaration/mitigated negative declaration incorporates by reference the general discussions from the broader EIR, thereby concentrating the later EIR or negative declaration/mitigated negative declaration solely on the issues specific to the later project. CCR Section 15152(b) states: "Agencies are encouraged to tier the environmental analysis which they prepare for separate but related projects including general plans, zoning changes, and development projects. ... Tiering is appropriate when the sequence of analysis is from an EIR prepared for a general plan, policy, or program to an EIR or negative declaration for another plan, policy, or program of lesser scope, or to a site-specific EIR or negative declaration." [Emphasis added.] CCR Section 15152(c) specifically authorizes the use of tiering for the type of project analyzed herein: "Where a lead agency is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof (e.g., an area plan or community plan), the development of detailed, site-specific information may not be

feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographical scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand.” [Emphasis added.]

State CEQA Guidelines CCR Section 15168 contains the provisions for use of a program EIR, “...which may be prepared on a series of actions that can be characterized as one large project and are related either:

- (1) Geographically,
- (2) A logical parts in the chain of contemplated actions,
- (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or
- (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.” (CCR Section 15168[a].)

CCR Section 15168(c) indicates that “Subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.” CCR Section 15168(d) states that “A program EIR can be used to simplify the task of preparing environmental documents on later parts of the program. The program EIR can:

- (1) Provide the basis in an Initial Study for determining whether the later activity may have any significant effects.
- (2) Be incorporated by reference to deal with regional influences, secondary effects, cumulative impacts, broad alternatives, and other factors that apply to the program as a whole.
- (3) Focus an EIR on a subsequent project to permit discussion solely of new effects which had not been considered before.”

With regards to exemption of residential projects from CEQA, PRC Section 65457 states: “Any residential development project, including any subdivision, or any zoning change that is undertaken to implement *and is consistent with a specific plan* for which an environmental impact report has been certified after January 1, 1980, is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. However, if after adoption of the specific plan, an event as specified in Section 21166 of the Public Resources Code occurs, the exemption provided by this subdivision does not apply unless and until a supplemental environmental impact report for the specific plan is prepared and certified in accordance with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.” Therefore, contrary to the commenter’s statement, all future residential projects are not necessarily exempt from CEQA. PRC Section 21166 sets forth the conditions under which supplemental or subsequent EIRs are required (i.e., substantial changes to the project that would require major revisions to the EIR, substantial changes in the circumstances under which a project is undertaken, or new information becomes available).



The City's decision to prepare a program-level EIR, and the relationship of that document to future project-specific environmental review, is described in DEIR/DEIS Section 1.4.3, "Project Level Environmental Impact Report/Environmental Impact Statement" (pages 1-9 and 1-10). As stated on page 1-10, "Development of the SPA is expected to occur in multiple phases [citation]. To move forward with a specific phase, the project applicant(s) intend to submit a tentative subdivision map/improvement plan for each project development phase. At that time, the City will require compliance with the Folsom Specific Plan performance standards and mitigation measures set forth in this EIR/EIS and incorporated into the Folsom Specific Plan for each tentative subdivision map/improvement plan as conditions of approval. Those future phases may require further environmental review. ... The extent of environmental review, if any, for future development entitlements will depend on a number of factors, including the streamlining provision of CEQA that seems most applicable to a particular proposed entitlement; consistency of the proposed development with the adopted specific plan; and the extent to which the programmatic analysis, performance standards, and mitigation measures have anticipated and accounted for the site-specific impacts of the requested entitlements." See also Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS.

Based on the above factors, and as described in DEIR/DEIS Section 1.4.3 (pages 1-9 and 1-10), the City has determined that preparation of a program-level EIR is the most appropriate tool at this time given the level of available information in which to analyze the environmental impacts of implementing the Folsom South of U.S. Specific Plan project.

Teichert-4-3

*The comment states that in several instances, as detailed in subsequent comments, the DEIR fails to adequately analyze the impacts of the project "to the extent reasonably foreseeable as required by CEQA." The comment further states that the DEIR used improper modeling techniques to determine the air and noise impacts, "which results in an inaccurate characterization of potential impacts." The comment concludes that the EIR fails to adequately inform decision makers of the environmental consequences of the project as required by CEQA (citing State CEQA Guidelines CCR Section 15151).*

This is a general statement made by the commenter as an introduction to further detailed comments that follow in the body of the letter. As a general matter, the City does not believe that the DEIR/DEIS used improper methodology for analysis of noise and air quality impacts, and therefore the DEIR/DEIS does not contain an inaccurate characterization of potential impacts. See responses to comments Teichert-2-5 through Teichert-2-232 in the FEIR/FEIS, and Teichert-4-4 through Teichert-4-117. See also Master Response 11 – Disagreement Regarding the Conclusions of the DEIR/DEIS, in the FEIR/FEIS.

Teichert-4-4

*The comment states that the DEIR contains many mitigation measures, which are discussed in detail in subsequent comments, requiring that additional studies or mitigation plans be submitted after approval of the Folsom Plan Area Specific Plan (FPASP) as part of subsequent project phases. The comment states that it is improper to defer the formulation of "important" mitigation measures until after project approval, and that mitigation measures must be feasible (citing State CEQA Guidelines CCR Section 15126.4).*

This is a general statement made by the commenter as an introduction to further detailed comments that follow in the body of the letter. As a general matter, the City does not believe that the DEIR/DEIS improperly defers mitigation. The commenter correctly

states that State CEQA Guidelines CCR Section 15126.4(a) requires that mitigation measures must be feasible. However, this section of the State CEQA Guidelines cited by the commenter also negates the commenter’s argument regarding deferral of mitigation measures. “Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. *However, 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.*” (CCR Section 15126.4[b], emphasis added.) See also State CEQA Guidelines CCR Section 15152(c), which states “Where a lead agency is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof (e.g., an area plan or community plan), the development of detailed, site-specific information may not be feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographical scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand.” [Emphasis added.] Because of the project’s early stage in the planning process and the planned implementation of the project over a 20-year timeframe, the program-level nature of the analysis contained in the DEIR/DEIS necessarily requires some “program-level” mitigation measures that call for future plans and/or studies. Each of these mitigation measures contains specific performance standards that would mitigate the significant impact as required by State CEQA Guidelines CCR Section 15126.4(b). See, for example, hydrologic Mitigation Measure 3A.9-2 (requires preparation of final drainage plans and implementation of stormwater best management practices), which contains an 11-point bulleted list of the required plan components; geologic Mitigation Measure 3A.7-1a (preparation of site-specific geotechnical report[s]), which includes a 12-point bulleted list of the components required to be evaluated in the report(s) and requires compliance with the California Building Standards Code (CBC); noise Mitigation Measure 3A.11-1 (preparation of a noise control plan), which includes a 10-point bulleted list of components that could be included in the plan (as determined by the City of Folsom); and air quality Mitigation Measure 3A.2-1a (implementation of measures to control air pollutant emissions), which contains a 16-point bulleted list of components that could be included in the plan (as determined by the Sacramento Metropolitan Air Quality Management District [SMAQMD]). Therefore, the City does not believe that any mitigation measures in the EIR have been improperly deferred, nor are any of the proposed mitigation measures infeasible. See also Master Response 9 – Deferred and/or Hortatory Mitigation and Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS.

Teichert-4-5

*The comment cites State CEQA Guidelines CCR Section 15378(9)(a) regarding consideration of a project as “the whole of an action.” The comment further states that although the DEIR/DEIS evaluates both the “Land” and “Water” portions of the project, the analysis is split into separate impacts for each component, which results in segmentation because the two parts may individually have less-than-significant impacts but may have undisclosed significant impacts when considered together.*

See responses to comments Teichert-2-15 through Teichert-2-16 in the FEIR/FEIS. The integration of the analysis for the “Land” and “Water” portions of the project is discussed in detail in the DEIR/DEIS in Chapter 1 “Introduction” (Sections 1.1 “Project Requiring Environmental Analysis” and 1.2 “Project Geographies” pages 1-1 through 1-3); Chapter 2, “Alternatives (Section 2.10 “Integration of ‘Land’ and ‘Water’ Alternatives for Development” page 2-104); Chapter 3, “Affected Environment, Environmental

Consequences, and Mitigation Measures” (Section 3.1.2 “Integration of ‘Land’ and ‘Water’ Alternatives for Development” page 3-2), and Chapter 4, “Other Statutory Requirements” (Section 4.1.1 “Introduction to Cumulative Impacts” page 4-1). The City believes that the approach taken in the DEIR/DEIS is consistent with the requirements of CEQA, and provides the most effective means for identifying and presenting “the whole of the action,” which consists of both the “Land” and “Water” components of the project.

Teichert-4-6

*The comment summarizes the requirements of State CEQA Guidelines CCR Section 15088.5(a) as to the circumstances when recirculation of an EIR is required, and claims that for reasons specified throughout the body of the comment letter, the DEIR prepared for this project must be recirculated pursuant to CCR Section 15088.5(a).*

This comment is general in nature and therefore a general response is appropriate. The City disagrees with the commenter’s assertions, and does not believe that the DEIR should be recirculated for the reasons set forth in responses to Teichert-4-7 through Teichert 4-117 and as set forth in Master Response 12 – DEIR/DEIS Recirculation is Not Required (in the FEIR/FEIS).

Teichert-4-7

*The comment states that the DEIR requires the future preparation of a detailed monitoring plan and development of reporting requirements as part of Mitigation Measure 3A.3-2a related to the potential loss of Federally-listed vernal pool invertebrates. The comment further states that the failure to include the monitoring plan and reporting requirements as part of the DEIR constitutes impermissible deferral of mitigation, and there is no evidence in the DEIR to conclude that the impact would be reduced to a less-than-significant level.*

Mitigation Measure 3A.3-2a (DEIR/DEIS pages 3A.3-51 and 3A.3-52) is not required as mitigation for Federally-listed vernal pool invertebrates; Mitigation Measure 3A.3-2a is required for mitigation of impacts on Swainson’s hawk.

The City assumes that the commenter is actually referring to Mitigation Measure 3A.3-2g (DEIR/DEIS pages 3A.3-61 and 3A.3-62), which requires, in part, that a Wetland Mitigation and Monitoring Plan be developed and implemented. Mitigation Measure 3A.3-2g contains five paragraphs of text that provide specific performance standards.

As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, “Introduction,” this project is a specific plan which is proposed for implementation over the next 20 years and the DEIR/DEIS was prepared a program level of analysis. Since Mitigation Measure 3A.3-2g contained five paragraph of performance standards related to the contents and implementation of the Wetland Mitigation and Monitoring Plan, the City believes that Mitigation Measure 3A.3-2g is appropriate for the level of analysis performed in the DEIR/DEIS and that no deferral has occurred.

Finally, the DEIR/DEIS does not say that implementation of Mitigation Measure 3A.3-2g would reduce the impacts on Federally-listed vernal pool invertebrates to a less-than-significant level. As explained in detail on page 3A.3-69 of the DEIR/DEIS, this impact would be significant and unavoidable because the direct removal of approximately 2,700 acres and indirect effect to approximately 800 acres of potential habitat for special-status wildlife (including Federally-listed vernal pool invertebrates) cannot be fully mitigated.

See also Master Response 9 – Deferred and/or Hortatory Mitigation and Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS. The City also notes that a Draft Wetland Operations and Maintenance Plan and Draft Wetland Mitigation and

Monitoring Plan were attached and circulated with the FEIR/FEIS as Appendices P and Q, respectively.

Teichert-4-8 *The comment states that the Executive Summary table incorrectly lists the title of Impact 3A.9-5.*

This typographical error contained in the DEIR/DEIS Executive Summary table has been corrected as shown in Table 1-1 of the FEIR/FEIS.

Teichert-4-9 *The comment suggests that incorporating the Freeport Regional Water Supply Project EIR/EIS by reference was not appropriate, was inconsistent with CEQA Guidelines, and that the analysis contained within that document should have been included within the body of the DEIR.*

See Master Response 14 – Relationship of the “Water” Component of the Project to the Freeport Regional Water Project, in the FEIR/FEIS. The City disagrees with the assertion that incorporating the Freeport Regional Water Supply Project EIR/EIS was not appropriate and conflicts with the State CEQA Guidelines. The Folsom South of U.S. 50 Specific Plan project proposes to use a small portion of the permitted capacity within the Freeport Water Regional Water Supply Project. As a result, the Folsom South of U.S. 50 Specific Plan project would not need to construct a new river intake and pipeline facility. The full effects of the Freeport Regional Water Supply Project were documented in that project’s EIR/EIS. Further, that EIR/EIS has been approved and certified and that project has been permitted and constructed. CEQA specifically encourages agencies to rely on information developed in previous EIRs. (See PRC Section 21003[d]-[e].) Incorporating the analysis in the Freeport project’s EIR/EIS by reference accordingly is appropriate and is consistent with CEQA and the State CEQA Guidelines to help streamline the content contained in environmental documents. As the State CEQA Guidelines state, “[t]he purpose of CEQA is not to generate paper...” (State CEQA Guidelines, 14 CCR Section 15003[g].)

Teichert-4-10 *The comment restates a portion of State CEQA Guidelines CCR Section 15126.6(a) related to identification of project alternatives. The comment states that the DEIR should evaluate a new alternative that places sensitive land uses a greater distance from roadways where quarry truck trips would occur, in order to reduce air and noise impacts on these sensitive receptors within the SPA.*

See responses to comments Teichert-2-11 and Teichert-2-12 in the FEIR/FEIS.

Teichert-4-11 *The comment refers to previous comment Teichert-4-9.*

See response to comment Teichert-4-9.

Teichert-4-12 *The comment relates to DEIR Section 3.1.2 “Integration of ‘Land’ and ‘Water’ Alternatives for Development,” and states that the impacts of the project were improperly segmented (citing to State CEQA Guidelines CCR Section 15378[a]).*

See responses to comments Teichert-4-5, and Teichert-2-15 through Teichert-2-16 in the FEIR/FEIS.

Teichert-4-13 *The comment states the conclusions in the DEIR regarding significant and unavoidable impacts on scenic vistas, scenic resources within a designated scenic corridor, and*

*existing visual character, are conclusory, and states that visual simulations must be included.*

See responses to comments Teichert-2-17 and Teichert-2-18 in the FEIR/FEIS.

Teichert-4-14

*The comment states that Mitigation Measure 3A.1-1 relies upon the future submittal of a landscape plan to mitigate impacts on scenic vistas, and that since such landscape plan was not made available for public review, an impermissible deferral of mitigation has occurred.*

Mitigation Measure 3A.1-1 (DEIR/DEIS page 3A.1-25) requires the project applicant(s) to fund, construct, and maintain a landscape corridor along U.S. 50 that would be 50 feet wide in all locations except adjacent to the regional mall, where it would be 25 feet wide; furthermore, the mitigation measure calls for the use of native and/or drought tolerant plants. As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, "Introduction," this project is a specific plan which is proposed for implementation over the next 20 years and the DEIR/DEIS was prepared a program level of analysis. It is not possible to prepare further detailed information, such as the landscaping plan called for in Mitigation Measure 3A.1-1, at this stage in the planning process. The City believes that Mitigation Measure 3A.1-1 is appropriate for the level of analysis performed in the DEIR/DEIS and that no deferral has occurred. See also response to comment Teichert-4-4; and Master Response 9 – Deferred and/or Hortatory Mitigation and Master Response 10 – Programmatic Nature of Analysis in the FEIR/FEIS.

Teichert-4-15

*The comment states that Mitigation Measure 3A.7-4 is proposed to mitigate for impacts of the project on existing visual character of the project site (Impact 3A.1-3), and that this measure calls for performance of seismic refraction survey. The comment states that it is unclear how the performance of a seismic refraction survey would reduce the impacts to degradation of visual character.*

The commenter has identified a typographical error: Mitigation Measure 3A.7-4 does not pertain to Impact 3A.1-3. The comment is noted.

Teichert-4-16

*The comment states that Mitigation Measure 3A.1-4 relies upon future submittal of screen designs, which may include but are not limited to berms or fences, around construction staging areas to mitigation short-term construction-related visual impacts. The comment states that without illustrations of the proposed screen designs, it is unknown whether all feasible mitigation for this impact has been proposed.*

Mitigation Measure 3A.1-4 (DEIR/DEIS page 3A.1-30) requires the project applicant(s) to, among other things, screen construction staging areas from adjacent occupied land uses in earlier development phases to the maximum extent practicable. Screens may include, but are not limited to, the use of such visual barriers such as berms or fences. The screen design must be approved by the appropriate agency to further reduce visual effects to the extent possible. As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, "Introduction," this project is a specific plan which is proposed for implementation over the next 20 years, and the DEIR/DEIS was prepared at a program level of analysis. It is not possible to prepare detailed information, such as the screening plan called for in Mitigation Measure 3A.1-4, at this stage in the planning process. The City believes that Mitigation Measure 3A.1-4 is appropriate for the level of analysis performed in the DEIR/DEIS and that it constitutes all feasible mitigation. The commenter does not suggest any additional mitigation measures that he believes would be feasible, nor does the commenter specify how he believes that erection of screens

around construction staging areas would not result in feasible mitigation. See also Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS.

Teichert-4-17

*The comment states that Mitigation Measure 3A.1-5 requires the future establishment of onsite outdoor lighting standards for incorporation into the FPASP’s design guidelines and the future preparation of a lighting plan for the project’s off-site components as mitigation for light and glare impacts. The comment states that without the details proposed for lighting of the off-site components, it is unknown whether all feasible mitigation for this impact has been proposed.*

Mitigation Measure 3A.1-5 (DEIR/DEIS page 3A.1-32) contains a 10-point bulleted list of specific performance standards to be included in both the on- and off-site lighting plans. As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, “Introduction,” this project is a specific plan which is proposed for implementation over the next 20 years, and the DEIR/DEIS was prepared at a program level of analysis. It is not possible to prepare further detailed information, such as the lighting plan called for in Mitigation Measure 3A.1-5, at this stage in the planning process. The commenter fails to specify any additional feasible measures that he believes would further mitigate the impact. See also Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS.

Teichert-4-18

*The comment states that for the reasons discussed in comments Teichert-4-13 through Teichert-4-17, the DEIR should be revised and recirculated.*

For the reasons set forth in responses to comments Teichert-4-13 through Teichert-4-17, the City does not believe that the DEIR should be revised, nor does it need to be recirculated. See also Master Response 12 – DEIR/DEIS Recirculation is Not Required, in the FEIR/FEIS.

Teichert- 4-19

*The comment states that the division of the analysis of project impacts into separate “Land” and “Water” components could potentially result in the failure to disclose significant impacts of the combined “Land” and “Water” components. The comment further states that for Impact 3B.1-1 on page 3B.1-17 of the DEIR/DEIS, the analysis concludes that the project would have a less-than-significant impact for the “Water” component, but the discussion does not render a significance conclusion with respect to the combined impacts of the “Land” and “Water” components to scenic vistas.*

The commenter does not identify any specific impact from the project that he claims was not addressed or incorrectly analyzed by the City’s choice to provide “Land” and “Water” analyses and discussions to provide the most comprehensive and easily understandable impact analyses. As discussed in the responses to comments Teichert-2-15 through Teichert-2-16, several important factors led the City to adopt the format of analysis provided in the DEIR/DEIS. As discussed on page 1-1 of the DEIR/DEIS, due to the particular nature and geographic scope of the project, an environmental analysis that focuses on each of the two major project components (i.e., the land use component, and the off-site water supply facilities necessary to support the proposed land uses), best ensures full and accurate analyses and disclosure of potential environmental effects of the whole project to the public and to decision makers. Additionally, it is important to note that impacts to particular resources cannot simply be added together due to this project's broad geographic and temporal scope. To do so in the impact analyses would often create an inappropriate "apples to oranges" comparison.

The comment references Impact 3B.1-1 (DEIR/DEIS pages 3B.1-17 and 3B.1-18), which accurately describes the level of impact to scenic vistas for each of the Off-site Water Facility Alternatives. This impact was determined to be less than significant. With regards to the “Land” alternatives, Impact 3A.1-1 in Section 3A.1, “Aesthetics – Land” (DEIR/DEIS pages 3A.1-24 through 3A.1-26) fully addressed, analyzed, and disclosed the potential impacts related to scenic vistas. This impact was determined to be significant and unavoidable. The total impacts of the project were also considered in the cumulative impact analysis on pages 4-20 through 4-21 of the DEIR/DEIS. As provided therein, the cumulative impacts of the “Land” component when considered with the related projects, and including the “Water” component of the project, were determined to be cumulatively considerable. Therefore, the combined impacts of the “Land” and “Water” components of the project to scenic vistas are appropriately considered in the DEIR/DEIS.

Teichert-4-20

*The comment notes that Mitigation Measure 3B.1-2b requires the future preparation and submittal of landscape plans for each of the structural facility sites as mitigation for the impacts of the “Water” components of the project on the existing visual character of the surrounding area. The commenter suggests that because there are no landscape plans currently available for public review, there is no substantial evidence to support the conclusion that visual impacts can be reduced to a less-than-significant level.*

See Master Response 9 – Deferred and/or Hortatory Mitigation, in the FEIR/FEIS. In interpreting CEQA, the California courts and the State CEQA Guidelines have authorized mitigation measures that identify performance standards that may be accomplished in more than one specified way. (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1020-1022, 1029-1030; *Gray v. County of Madera* (2008) 167 Cal.App.4<sup>th</sup> 1099, 1126-1127; State CEQA Guidelines, 14 CCR Section 15126.4[a][1][B].) Mitigation Measure 3B.1-2b (DEIR/DEIS page 3B.1-19) contains a 3-point bulleted list of detailed performance standards. The commenter does not provide any specifics as to how he believes the performance standards are inadequate. The City accordingly disagrees with the assertion that there is no substantial evidence to support the conclusion that visual impacts can be reduced to a less-than-significant level with the incorporation of future landscaping plans that are typical for this type of construction. Detailed landscape plans are neither required nor available at this time, given the conceptual level at which the Off-Site Water Facilities are currently defined (see page 2-83 of the DEIR/DEIS under the “Pump Station” and “Water Treatment and Treated-Water Transmission Facilities” subheadings).

Teichert-4-21

*The comment notes that Mitigation Measure 3B.1-3b requires future preparation of a Lighting Master Plan for outdoor lighting sources associated with off-site water facilities. The commenter suggests that without further information regarding the details of the lighting plan, there is no substantial evidence to support the conclusion that impacts can be reduced to a less-than-significant level.*

See Master Response 9 – Deferred and/or Hortatory Mitigation, in the FEIR/FEIS. In interpreting CEQA, the California courts and the State CEQA Guidelines have authorized mitigation measures that identify performance standards that may be accomplished in more than one specified way. (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1020-1022, 1029-1030; *Gray v. County of Madera* (2008) 167 Cal.App.4<sup>th</sup> 1099, 1126-1127; State CEQA Guidelines, 14 CCR Section 15126.4[a][1][B].) Mitigation Measure 3B.1-3b (DEIR/DEIS pages 3B.1-21 and 3B.1-22) contains a 4-point bulleted list of detailed performance standards. The commenter

does not provide any specifics as to how he believes the performance standards are inadequate. The City accordingly disagrees with the assertion that there is no substantial evidence to support the conclusion that visual impacts can be reduced to a less-than-significant level with the incorporation of future lighting plans that are typical for this type of construction. Detailed Lighting Master Plans are neither required nor available at this time, given the conceptual level at which the Off-Site Water Facilities are defined currently (see page 2-83 of the DEIR/DEIS under the “Pump Station” and “Water Treatment and Treated-Water Transmission Facilities” subheadings).

Teichert-4-22

*The comment states that for the reasons listed in comments Teichert-4-19 through Teichert-4-21, the DEIR should be revised to include additional analyses of the combined aesthetics impacts of the “Land” and “Water” components of the project and to provide further detail regarding proposed mitigation measures.*

For the reasons set forth in responses to comments Teichert-4-19 through Teichert-4-21, the City does not believe any further analysis or further details regarding proposed mitigation measures are required.

Teichert-4-23

*The comment refers to “attached comments from Rimpo and Associates, Inc. regarding the methodology used in the analysis of toxic air contaminant (TAC) impacts.” The comment states that as noted in those comments, the DEIR’s use of SMAQMD screening criteria of 296-in-a-million cancer risk as a significance threshold is inconsistent with the SMAQMD protocol for analysis of TAC exposure, which recommends a site-specific Health Risk Assessment (HRA).*

See responses to comments Teichert-2-21 through Teichert-2-24 in the FEIR/FEIS.

Teichert-4-24

*The comment states that a specific plan EIR should not defer the project level of analysis until later phases because no further environmental review is required for residential projects implementing an adopted specific plan (citing PRC 65457). Therefore, the DEIR should be recirculated to include a revised TAC analysis that conforms to the SMAQMD protocol.*

The commenter states his opinion that CEQA regulation and law should be changed to require that all specific plan EIRs be prepared at a project level of analysis rather than a program level of analysis. This is a matter that resides with the jurisdiction of the California State Legislature, not the City. CEQA regulations and policies do not require that specific plan EIRs be prepared at a project level. (See State CEQA Guidelines, CCR Sections 15160-15170.) For the reasons discussed in detail in DEIR/DEIS Section 3.2 “Air Quality” on pages 3A.2-23 through 3A.2-26, the City believes that the appropriate methodology for the TAC analysis has been used, that the appropriate program-level of analysis has been performed, and no revisions to the DEIR/DEIS are required. See also responses to comments Teichert-4-2 and Teichert-4-4, and Master Response 10 – Programmatic Nature of Analysis (in the FEIR/FEIS).

Teichert-4-25

*The comment asks what source of construction aggregate was used for the assessment of the project’s air quality effects in Impact 3A.2-1. The comment also states that the EIR should include additional construction-related air quality impacts from not having a local source of aggregate to meet anticipated construction needs. The comment states that alternatively, the DEIR could address air quality benefits in terms of reduction in vehicle miles traveled (VMT) associated with using a local quarry source such as the proposed Teichert quarry project. Finally, the comment states that there would be a four-fold increase in VMT associated with out-of-county aggregate sources.*



See responses to comments Teichert-2-25 through Teichert-2-29 in the FEIR/FEIS.

Teichert-4-26

*The comment states that with regard to Mitigation Measures 3A.2-1a through 3A.2-1h, the DEIR provides no evidence that implementation of SMAQMD-recommended air quality mitigation measures and the payment of a fee to offset emissions of nitrogen oxides (NO<sub>x</sub>) would actually reduce the NO<sub>x</sub> impact to levels that are below the SMAQMD threshold.*

The DEIR/DEIS does not state that implementation of SMAQMD-recommended measures would reduce the level of NO<sub>x</sub> emissions below the 85 lb/day significance threshold. In fact, page 3A.2-32 states the opposite: “Implementation of the Proposed Project Alternative or the other four other action alternatives would result in construction-generated NO<sub>x</sub> emissions that exceed the SMAQMD threshold of significance, even after implementation of the SMAQMD Enhanced Exhaust Control Practices (listed in Mitigation Measure 3A.2-1a).” Mitigation Measure 3A.2-1b goes on to state that because the project’s emissions would not be reduced levels below SMAQMD thresholds, the applicant(s) must pay a fee to SMAQMD to off-set the NO<sub>x</sub> emissions (DEIR/DEIS page 3A.2-32). SMAQMD maintains a construction mitigation fund for NO<sub>x</sub>, which is used to help reduce NO<sub>x</sub> impacts on a regional level. As discussed on page 3A.2-33 of the DEIR/DEIS, fees are used by SMAQMD to purchase off-site emissions reductions. Such purchases are made through SMAQMD’s Heavy Duty Incentive Program, through which select owners of heavy-duty equipment in Sacramento County can repower or retrofit their old engines with cleaner engines or technologies. SMAQMD considers that when all of their recommended control measures are implemented and fees are paid into their regional NO<sub>x</sub> reduction program, the impact has been reduced to a less-than-significant level. The City notes that in the comment letter submitted by SMAQMD on the DEIR/DEIS, SMAQMD concurred with the impact conclusions contained in Air Quality Section 3A.2.

Teichert-4-27

*The comment states the DEIR relies on the project’s Air Quality Mitigation Plan (AQMP) contained in Appendix C2 as mitigation for operational air quality emissions, and states that some of the measures in the AQMP are dependent on adjacent development to succeed. The comment states that the DEIR should disclose the reduced degree to which the AQMP would mitigate air quality impacts (and the associated increase in impact significance) should the required adjacent development not occur.*

See responses to comments Teichert-2-30 through Teichert-2-32 in the FEIR/FEIS.

Teichert-4-28

*The comment states that additional comments from Rimpo & Associates, Inc. are attached regarding the DEIR’s analysis of impacts for exposure of sensitive receptors to operational emissions of TACs. The comment states that as detailed in those comments, “the DEIR relies on inappropriate thresholds of significance, uses methodology that is inconsistent with SMAQMD’s recommended protocol, and inappropriately employs 2010 emission factors that overstate potential impacts.” The comment further states that the analysis of TAC impacts is improperly deferred.*

See Master Response 6 – Quarry Trucks and TAC Exposure and response to comment Teichert-2-34 in the FEIR/FEIS.

Teichert-2-29

*The comment states that critical information necessary to analyze the adequacy of the DEIR’s conclusions has been omitted from the DEIR and its appendices.*

See response to comment Teichert-2-36 in the FEIR/FEIS.

Teichert-2-30

*The comment states that the DEIR should consider “a revised land use plan” that provides buffers from “major roadways” and sources of TAC emissions “to ensure that no significant exposure occurs.”*

The commenter is not suggesting a CEQA alternative; rather, the commenter suggests that the FPASP be redesigned for the sole purpose of accommodating many thousands of quarry truck trips per day through the SPA. The City and the project applicant(s) are under no obligation to do as the commenter has requested and, in fact, the City believes that the Teichert EIR failed to properly plan for and accommodate development within the SPA that it has long known would occur. See Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.

Teichert-2-31

*The comment states that although DEIR Impact 3A.2-5 identifies that “more than half of the project site” is located in “areas moderately likely to contain naturally occurring asbestos (NOA)” no analysis regarding the actual presence or absence of NOA has been included, which constitutes deferral and leaves the decision makers without critical information regarding the environmental consequences of the project.*

The California Geological Survey has identified three potential categories of ultramafic rock: areas more likely to contain NOA, areas moderately likely to contain NOA, and undesignated map areas that probably do not contain NOA (see DEIR/DEIS page 3A.7-6 in Section 3A.7, “Geology, Soils, Minerals, and Paleontological Resources”). The SPA is located within an area that has been mapped as moderately likely to contain NOA – this is not a high risk area. However, to ensure that any potential impacts from NOA would be ascertained and mitigated, this issue was evaluated in Impact 3A.2-5 (DEIR/DEIS pages 3A.2-57 and 3A.2-58), and Mitigation Measure 3A.2-5 (DEIR/DEIS pages 3A.2-58 and 3A.2-59) requires that a licensed geologist perform an investigation at the SPA to determine whether or not NOA is present, and if so, whether it occur at levels that could pose a human health hazard. If the latter determination is made, then the project applicant(s) would be required to comply with Section 93105 of the California Health and Safety Code, “Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations.” This section of the code is administered by the appropriate air management districts; in this case, SMAQMD. Therefore, the SMAQMD asbestos control measures are set forth in Mitigation Measure 3A.2-5, and thus the mitigation is not deferred. Compliance with the Health and Safety Code would reduce the impact to a less-than-significant level. As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, “Introduction,” this project is a specific plan which is proposed for implementation over the next 20 years, and the DEIR/DEIS was prepared at a program level of analysis. The City believes that the DEIR/DEIS appropriately identifies the environmental consequences of the project related to NOA, and includes all feasible mitigation measures related thereto. See also Master Response 9 – Deferred and/or Hortatory Mitigation and Master Response 10 – Programmatic Nature of Analysis (in the FEIR/FEIS).

Teichert-4-32

*The comment states that although Mitigation Measure 3A.2-5 requires preparation and implementation of an Asbestos Dust Control Plan, there is no substantial evidence to conclude that the impact would be reduce to a less-than-significant level.*

See response to comment Teichert-4-31.

Teichert-4-33 *The comment states that for the reasons identified in comments Teichert-4-23 through Teichert-4-32, the DEIR should be revised and recirculated.*

For the reasons set forth in responses to comments Teichert-4-23 through Teichert-4-32, the City does not believe that revisions are required nor is recirculation necessary. See also Master Response 12 – DEIR/DEIS Recirculation is Not Required, in the FEIR/FEIS.

Teichert-4-34 *The comment relates to Impact 3B.2-1 and references previous comment Teichert-4-25 regarding Impact 3A.2-1, and suggests that the analysis of construction-related air quality impacts for the project should consider the additional environmental impacts of not having a local source of aggregate to meet anticipated construction aggregate needs.*

See responses to comments Teichert-2-25 and Teichert-2-26 in the FEIR/FEIS.

Teichert-4-35 *The comment states that the discussion of Impact 3B.2-2 on page 3B.2-11 of the DEIR concludes the impact would be less than significant for the proposed “Water” components of the project but does not render a significance conclusion with respect to the combined impacts of the “Land” and “Water” components relative to regional operational emissions of reactive organic gasses (ROG) and NO<sub>x</sub>, and therefore the DEIR should be revised.*

The commenter does not identify any specific impact from the project that he claims was not addressed or incorrectly analyzed by the City’s choice to provide “Land” and “Water” analyses and discussions to provide the most comprehensive and easily understandable impact analyses. As explained in the City’s responses to comments Teichert-2-15 through Teichert-2-16 (in the FEIR/FEIS) and Teichert-4-19, the City’s choice to provide detailed analyses of all aspects of the project using the “Land” and “Water” analyses was appropriate and did not result in any impacts of the overall project being overlooked or unaddressed. Impact 3B.2-2 (DEIR/DEIS pages 3B.2-11 and 3B.2-12) accurately describes the level of operational impact for ozone precursors for each of the Off-site Water Facility Alternatives. As provided, the operational or long-term impacts to local and regional ozone concentrations from the “Water” alternatives would be less than significant. Further, these operational emissions would occur in advance of the “Land” alternatives by virtue that Off-site Water Facility operations would be required prior to the commencement of any operations for the “Land” alternatives.

With regards to the “Land” alternatives, Impact 3A.2-2 in Section 3A.2, “Air Quality – Land” (DEIR/DEIS pages 3A.2-42 throughn 3A.2-48) fully addressed, analyzed, and disclosed the potential impacts related to the generation of ozone precursors. This impact was determined to be significant and unavoidable for all of the “Land” alternatives. The total impacts of the project were also considered in the cumulative impact analysis. As provided on pages 4-22 through 4-23 of the DEIR/DEIS, the cumulative long-term, operational air quality effects of the “Land” component, when considered with the related projects, and including the “Water” component of the project, were determined to be cumulatively considerable. Therefore, the combined impacts of the “Land” and “Water” components to long-term air quality are appropriately considered in the DEIR/DEIS.

Teichert-4-36

*The comment states that for Impact 3B.2-3 on page 3B.2-12 of the DEIR, the discussion concludes that the impact would be less than significant for the proposed “Water” component of the project but does not render a significance conclusion with respect to the combined impacts from TACs on the “Land” and “Water” components, and therefore the DEIR should be revised.*

The commenter does not identify any specific impact from the project that he claims was not addressed or incorrectly analyzed by the City’s choice to provide “Land” and “Water” analyses and discussions to provide the most comprehensive and easily understandable impact analyses. As explained in the City’s response to comments Teichert-2-15 through Teichert-2-16 (in the FEIR/FEIS) and Teichert-4-19, the City’s choice to provide detailed analyses of all aspects of the project using the “Land” and “Water” analyses was appropriate and did not result in any impacts of the overall project being overlooked or unaddressed. Impact 3B.2-3 accurately describes the level of impact from short- and long-term TACs for each of the Off-site Water Facility Alternatives. With mitigation, these impacts would be less than significant. With regards to the “Land” alternatives, Impact 3A.2-4 in Section 3A.2, “Air Quality – Land” (DEIR/DEIS pages 3A.2-50 through 3A.2-57) fully addressed, analyzed, and disclosed the potential impacts related to short- and long-term TAC impacts. Mobile-source, construction-related, and corporation yard-related TAC impacts for all the “Land” alternatives are considered to be significant and unavoidable. The impact determination was largely based on the proximity of new residential uses within the SPA to the sources of TAC emissions, whereas the “Water” alternatives would involve no new residential uses.

The total impacts of the project were also considered in the cumulative impact analysis. As provided on pages 4-23 through 4-26 of the DEIR/DEIS, the cumulative impacts of TACs from the “Land” component, when considered with the related projects, and including the “Water” component of the project, were determined to be cumulatively considerable. Therefore, the combined impacts of the “Land” and “Water” components for TACs are appropriately considered in the DEIR/DEIS.

Teichert-4-37

*The comment states that for the reasons listed in comments Teichert-4-34 through Teichert-4-36, the DEIR should be revised to include an additional analysis of the combined air quality impacts of the “Land” and “Water” components of the Project.*

For the reasons stated in responses to comments Teichert-4-34 through Teichert-4-36, the City does not believe that the DEIR requires any further analysis.

Teichert-4-38

*The comment states that Mitigation Measures 3A.3-1a and 3A.3-1b require future submittal of a draft wetland mitigation and monitoring plan, stormwater drainage plans, and erosion and sediment control plans, and that draft versions of these plans should have been submitted for public review along with the DEIR. The comment states that without this information, it is not possible to determine whether the DEIR contains all feasible mitigation necessary to reduce this impact “to the extent required by law.”*

A draft stormwater drainage plan was circulated with the DEIR/DEIS as Appendix H. Erosion and sediment control plans are required by the City at the project-specific level as conditions of tentative map approval; they cannot be prepared at the present stage of project planning. A draft Wetland Operations and Maintenance Plan and Draft Wetland Mitigation and Monitoring Plan, as called for in Mitigation Measure 3A.3-1b (DEIR/DEIS pages 3A.3-37 through 3A.3-40), were circulated with the FEIR/FEIS as Appendices P and Q, respectively. As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, “Introduction,” this project is a specific plan which is proposed

for implementation over the next 20 years, and the DEIR/DEIS was prepared at a program level of analysis. It is not possible to prepare detailed erosion and sediment control plans as called for in Mitigation Measure 3A.1-3a (DEIR/DEIS pages 3A.3-31 and 3A.3-32), at this stage in the planning process. The City believes that the DEIR contains all feasible mitigation that would reduce Impact 3A.3-1 to the maximum extent practicable; however, this impact was identified as significant and unavoidable (see DEIR/DEIS pages 3A.3-49 and 3A.3-50). The commenter fails to suggest any other feasible mitigation that he believes would reduce the level of impact. See also Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS.

Teichert-4-39

*The comment states that Mitigation Measure 3A.3-2a differs from what is presented as Mitigation Measure 3A.3-2a in the Executive Summary table.*

The Executive Summary table is contained in Chapter 1, “Introduction” of the FEIR/FEIS. Edits to the table are shown in redline/strikeout. The numbering issue in the Executive Summary Table, as noted by the commenter, was corrected.

Teichert-4-40

*The comment states that Mitigation Measure 3A.3-2b was labeled as Mitigation Measure 3A.3-2c in the Executive Summary Table.*

The Executive Summary table is contained in Chapter 1, “Introduction” of the FEIR/FEIS. Edits to the table are shown in redline/strikeout. The numbering issue in the Executive Summary Table, as noted by the commenter, was corrected.

Teichert-4-41

*The comment states that Mitigation Measure 3A.3-2b requires the future preparation and implementation of a Swainson’s hawk mitigation plan and that the DEIR should have included a draft version of the plan. The comment states that without this information, it is not possible to determine whether Impact 3A.3-2 would be reduced to a less-than-significant level.*

Mitigation Measure 3A.3-2b contains a 1.5-page discussion of the performance standards that must be included in the Swainson’s hawk mitigation plan (DEIR/DEIS pages 3A.3-53 and 3A.3-54). As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, “Introduction,” this project is a specific plan which is proposed for implementation over the next 20 years, and the DEIR/DEIS was prepared at a program level of analysis. It is not possible to prepare a detailed Swainson’s hawk mitigation plan as called for in Mitigation Measure 3A.3-2b, at this stage in the planning process, because the project-specific development details that would have to be considered in such a plan are not yet known. Furthermore, the DEIR/DEIS does not state that implementation of Mitigation Measure 3A.3-2b would reduce the impact to a less-than-significant level; in fact, it explains on page 3A.3-69 why the impact would be significant and unavoidable. See also Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS.

Teichert-4-42

*The comment states that Impact 3A.3-5 estimates the acres of blue oak woodland habitat that would be affected by the project but does not address the number and sizes of individual oak trees that would specifically be affected. The comment states that preparation of a tree survey is being deferred until after project approval. The comment further states that the DEIR does not provide information regarding the actual magnitude of the impact, which deprives decision makers of critical information regarding the environmental consequences of the project (citing State CEQA Guidelines CCR Section 15151).*

See responses to comments Teichert-2-50 through Teichert-2-55 in the FEIR/FEIS.

Teichert-4-43 *The comment states that Mitigation Measure 3A.3-5 includes future preparation of a tree survey and an oak woodland mitigation plan. The comment states that the failure to include draft survey and draft plan constitutes deferral of mitigation, and that it is unknown whether the DEIR includes all feasible mitigation for this impact.*

See responses to comments Teichert-2-50 through Teichert-2-55 in the FEIR/FEIS. Mitigation Measure 3A.3-5 contains a 39-point bulleted list and associated discussion over four pages of text, all of which serve as performance standards; therefore, the mitigation is not deferred. As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, "Introduction," this project is a specific plan which is proposed for implementation over the next 20 years, and the DEIR/DEIS was prepared at a program level of analysis. It is not possible to prepare a detail oak woodland mitigation plan at this stage in the planning process. The City believes that the DEIR includes all feasible mitigation for this impact, which has been identified as significant and unavoidable. The commenter fails to suggest any other type of mitigation that he believes would further reduce the level of impact. See also Master Response 9 – Deferred and/or Hortatory Mitigation and Master Response 10 – Programmatic Nature of Analysis (in the FEIR/FEIS).

Teichert-4-44 *The comment states that although Impact 3A.3-6, potential interference with wildlife movement, is identified less than significant for the "Land" portion of the project, the DEIR does not render a significance conclusion with respect to the combined "Land" and "Water" components of the project for this impact.*

The commenter does not identify any specific impact from the project that he claims was not addressed or incorrectly analyzed by the City's choice to provide "Land" and "Water" analyses and discussions to provide the most comprehensive and easily understandable impact analyses. As explained in the City's response to comment Teichert-2-15 (in the FEIR/FEIS), the City's choice to provide detailed analyses of all aspects of the project using the "Land" and "Water" analyses was appropriate and did not result in any impacts of the overall project being overlooked or unaddressed. The comment references Impact 3A.3-6. The City believes that Impact 3A.3-6 in Section 3A.3, "Biological Resources – Land" (DEIR/DEIS pages 3A.3-88 and 3A.3-93) accurately describes the level of impact from potential interference with wildlife movement for each of the "Land" alternatives; this impact was determined to be less than significant. With regards to the "Water" alternatives, Impact 3B.3-6 in Section 3B.3, "Biological Resources - Water" (DEIR/DEIS page 3B.3-61) fully addressed, analyzed, and disclosed the potential impact related to wildlife movement. This impact was also determined to be less than significant. The impacts of the combined "Land" and "Water" components related to wildlife movement would be less than significant because the off-site water facilities would be constructed underground and the water treatment plant (WTP) would be constructed within the SPA; therefore, there is no additive effect.

Teichert-4-45 *The comment states that for the reasons listed above in comments Teichert-4-38 through Teichert-4-43, DEIR Section 3A.3 should be revised.*

For the reasons set forth in responses to comments Teichert-4-38 through Teichert-4-43, the City does not believe that any revisions to the DEIR are necessary.

Teichert-4-46 *The comment states that prior comment Teichert-4-38 (related to Mitigation Measure 3A.3-1a) also applies to Mitigation Measure 3B.3-1a.*

See response to comment Teichert-4-38.

Teichert-4-47 *The comment asks what source of construction aggregate was used in assessing the project's construction-related climate change impacts (related to Impact 3A.4-1), and suggests that the DEIR's analysis of construction-related climate change impacts should address the additional environmental impacts of not having a local aggregate source to meet anticipated construction aggregate needs. The comment suggests that, alternatively, the DEIR/DEIS could address a regional reduction in VMT and associated climate change impacts from utilizing a local aggregate source.*

See responses to comments Teichert-2-25 through Teichert-2-27 in the FEIR/FEIS; although these responses were directed toward air quality impacts, they are also applicable to this comment on climate change.

Teichert-4-48 *The comment states that if the future aggregate source was not the Teichert Quarry, and future aggregate needs were met by other Teichert aggregate mining facilities in neighboring counties, a four-fold increase in VMT associated with aggregate transport would occur. The comment therefore states that the DEIR should address additional climate change impacts of increased distance of aggregate transport VMT, including impacts on individual communities affected by such truck traffic.*

See responses to comments Teichert-2-28 and Teichert-2-29 in the FEIR/FEIS; although these responses were directed toward air quality impacts, they are also applicable to this comment on climate change.

Teichert-4-49 *The comment states that Mitigation Measures 3A.4-2a and 3A.4-2b defer mitigation for the project's operational impacts on greenhouse gas (GHG) emissions because an analysis of the GHG emissions associated with each increment of new development and the selection of mitigation measures therefore is not required until the future.*

Mitigation Measure 3A.4-2a (DEIR/DEIS pages 3A.4-26 through 3A.4-29) consists of 3.5 pages of text and a 30-point bulleted list of items that serve as performance standards; therefore, the mitigation measure is not deferred. Mitigation Measure 3A.4-2b (DEIR/DEIS page 3A.4-29) contains 308 words of text that serve as performance standards specifying the contents of the urban and community forestry program and the methodology by which it would be approved and implemented; therefore, the mitigation measure is not deferred. As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, "Introduction," this project is a specific plan which is proposed for implementation over the next 20 years, and the DEIR/DEIS was prepared at a program level of analysis. It is not possible to prepare an exact calculation of GHG emissions for each increment of new development at this stage in the planning process because those new developments have not been designed yet. See also Master Response 9 – Deferred and/or Hortatory Mitigation and Master Response 10 – Programmatic Nature of Analysis (in the FEIR/FEIS).

Teichert-4-50 *The comment states that for the reasons listed in comments Teichert-4-47 through Teichert-4-49, the DEIR should be revised.*

For the reasons listed above in responses to comments Teichert-4-47 through Teichert-4-49, the City does not believe that any revisions to the DEIR are required.

Teichert-4-51 *The comment states that prior comments Teichert-4-47 and Teichert-4-48 (related to Impact 3A.4-1) also apply to Impact 3B.4-1.*

See responses to comments Teichert-4-47 and Teichert-4-48.

Teichert-4-52

*The comment states that DEIR Mitigation Measure 3B.4-1b relies upon the future development and implementation of a draft of an Off-site Water Facilities Climate Action Plan and Greenhouse Reduction Strategy to mitigate climate change impacts, that the DEIR should be revised to include a draft of this plan to “ensure that all feasible measures are being considered and required for the project.”*

For several reasons, the City disagrees with the assertion that the DEIR/DEIS should be revised to include a draft of an Off-site Water Facilities Climate Action Plan and Greenhouse Reduction Strategy. Mitigation Measure 3B.4-1b (DEIR/DEIS pages 3B.4-6 and 3B.4-7) contains an 8-point bulleted list of performance standards, and the commenter does not provide any specifics as to how he believes the performance standards are inadequate. The comment also fails to recognize that Mitigation Measure 3B.4-1b complies with the State CEQA Guidelines 14 CCR Section 15126.4(c) that addresses mitigation measures related to greenhouse gas emissions. Mitigation Measure 3B.4-1b (DEIR/DEIS page 3B.4-6) indicates that the project would include features that would reduce greenhouse gas emissions. Finally, as discussed throughout the DEIR/DEIS, the Off-Site Water Facilities are currently at a generalized level of design and Mitigation Measure 3B.4-1b is appropriate to that level of analysis. Therefore, a draft of an Off-site Water Facilities Climate Action Plan and Greenhouse Reduction Strategy are neither required nor available at this time.

Teichert-4-53

*The comment states that although Impact 3A.6-1, potential impacts on minority populations, is identified as less than significant for the “Land” portion of the project, the DEIR does not render a significance conclusion with respect to the combined “Land” and “Water” components of the project for this impact.*

The commenter does not identify any specific impact from the project that he claims was not addressed or incorrectly analyzed by the City’s choice to provide “Land” and “Water” analyses and discussions to provide the most comprehensive and easily understandable impact analyses. As explained in the City’s response to comment Teichert-2-15 (in the FEIR/FEIS), the City’s choice to provide detailed analyses of all aspects of the project using the “Land” and “Water” analyses was appropriate and did not result in any impacts of the overall project being overlooked or unaddressed. The comment references Impact 3A.6-1. The City believes that Impact 3A.6-1 in Section 3A.6, “Environmental Justice – Land” (DEIR/DEIS pages 3A.6-6 and 3A.6-7) accurately describes the level of impact related to minority populations for each of the “Land” alternatives; this impact was determined to be less than significant. With regards to the “Water” alternatives, Impact 3B.6-1 in Section 3B.6, “Environmental Justice – Water” (DEIR/DEIS pages 3B.6-3) fully addressed, analyzed, and disclosed the potential impact related to minority populations. This impact was determined to be less than significant. The total effects of the project were also considered in the cumulative impact analysis provided on pages 4-35 through 4-36 of the DEIR/DEIS. There, the cumulative impacts to minority populations of the “Land” component, when considered with the related projects, including the “Water” component of the project, were determined not to be cumulatively considerable. Therefore, the combined impacts of the “Land” and “Water” components to minority populations are appropriately considered in the DEIR/DEIS. Finally, the City notes that environmental justice is a NEPA issue that pertains only to the FEIS, not to the FEIR.



Teichert-4-54

*The comment states that although Impact 3A.6-2, potential impacts on low-income populations, is identified as less than significant for the "Land" portion of the project, the DEIR does not render a significance conclusion with respect to the combined "Land" and "Water" components of the project for this impact.*

The commenter does not identify any specific impact from the project that he claims was not addressed or incorrectly analyzed by the City's choice to provide "Land" and "Water" analyses and discussions to provide the most comprehensive and easily understandable impact analyses. As explained in the City's response to comment Teichert-2-15 (in the FEIR/FEIS), the City's choice to provide detailed analyses of all aspects of the project using the "Land" and "Water" analyses was appropriate and did not result in any impacts of the overall project being overlooked or unaddressed. The comment references Impact 3A.6-2. The City believes that Impact 3A.6-2 in Section 3A.6, "Environmental Justice – Land" (DEIR/DEIS pages 3A.6-7 and 3A.6-8) accurately describes the level of impact related to low-income populations for each of the "Land" alternatives; this impact was determined to be less than significant. With regards to the "Water" alternatives, Impact 3B.6-2 in Section 3B.6, "Environmental Justice – Water" (DEIR/DEIS pages 3B.6-3 and 3B.6-4) fully addressed, analyzed, and disclosed the potential impact related to low-income populations. This impact was determined to be less than significant. The total impacts of the project were also considered in the cumulative impact analysis provided on pages 4-35 through 4-36 of the DEIR/DEIS. There, the cumulative impacts to low-income populations of the "Land" component, when considered with the related projects, including the "Water" component of the project, were determined not to be cumulatively considerable. Therefore, the combined impacts of the "Land" and "Water" components to low-income populations are appropriately considered in the DEIR/DEIS. Finally, the City notes that environmental justice is a NEPA issue that pertains only to the FEIS, not to the FEIR.

Teichert-4-55

*The comment states that for the reasons listed in comments Teichert-4-53 through Teichert-4-54, the DEIR should be revised.*

For the reasons listed above in responses to comments Teichert-4-53 through Teichert-4-54, the City does not believe that any revisions to the DEIR are required.

Teichert-4-56

*The comment states that for Impact 3B.6-1 on page 3B.6-3 of the DEIR, the discussion concludes that the impact would be less than significant for the proposed "Water" component of the project but does not render a significance conclusion with respect to the combined impacts of the "Land" and "Water" components to minority populations.*

See response to comment Teichert-4-53.

Teichert-4-57

*The comment states that for Impact 3B.6-2 on page 3B.6-3 of the DEIR, the discussion concludes that the impact would be less than significant for the proposed "Water" component of the project but does not render a significance conclusion with respect to the combined impacts of the "Land" and "Water" components to low-income populations.*

See response to comment Teichert-4-54.

- Teichert-4-58 *The comment states that the for the reasons listed in comments Teichert-4-56 and Teichert-4-57, the DEIR should be revised to include an additional analysis of the combined environmental justice impacts of the “Land” and “Water” components of the project.*
- For the reasons stated in responses to comments Teichert-4-53 through Teichert-4-57, the City does not believe that any additional analysis is required.
- Teichert-4-59 *The comment states that the DEIR should be revised to reflect the fact that land south of SPA has been designated as Mineral Resource Zone (MRZ)-2, rather than MRZ-3.*
- See responses to comments Sac Cnty-2-36 through Sac Cnty-2-38 in the FEIR/FEIS.
- Teichert-4-60 *The comment suggests that the DEIR/DEIS should analyze the project’s impacts on significant mineral resources in the vicinity of the project site.*
- See response to comment Sac Cnty-2-35 in the FEIR/FEIS.
- Teichert-4-61 *The comment states that Impact 3A.7-1 says that structures on the project site could be subject to strong seismic ground shaking, and that this impact would be potentially significant. The comment also states that according to the DEIR, geotechnical reports have not been prepared for the entire project site, and three of the five geotechnical reports do not conform to the requirements of the current CBC.*
- The comments restates text that is contained in DEIR/DEIS Section 3A.7, “Geology, Soils, Minerals, and Paleontological Resources”; the comment is noted.
- The comment further states that the preparation of geotechnical reports has been deferred until after project approval (Mitigation Measure 3A.7-1), and that since the geotechnical reports are not available, the DEIR’s “blanket statement” regarding strong seismic ground shaking (in Impact 3A.7-1) does not inform decision makers regarding the environmental consequences of the project.*
- As stated in DEIR/DEIS Section 3A.7, “Geology, Soils, Minerals, and Paleontological Resources,” (page 3A.7-3), the potential for strong seismic ground shaking depends on the magnitude of the earthquake, the location of the epicenter, the character and duration of the ground motion, the characteristics of the underlying soil and rock and, where structures exist, the building materials used and the workmanship of the structures. Therefore, if one portion of the project site would be subject to strong seismic ground shaking, the entire project site would be subject to strong seismic ground shaking; thus, the conclusion in Impact 3A.7-1 is appropriate. See also response to comment Teichert-4-63.
- As stated in the “Analysis Methodology” subsection on page 3A.7-24 of the DEIR/DEIS, the analysis provided in the DEIR/DEIS relies in part on the background information relating to existing geologic conditions discussed in the geotechnical reports (which would not change, regardless of CBC requirements), partly on a review of various scientific publications (such as geologic maps published by the California and U.S. Geological Surveys and soil survey data published by the Natural Resources Conservation Service, the results of which are presented on pages 3A.7-1 through 3A.7-17 of the DEIR/DEIS), partly on a review of the materials and type of construction proposed, and partly on professional judgment. See also Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS.

Teichert-4-62 *The comment states that because no additional CEQA analysis will be required for subsequent development that is consistent with the FPASP (citing PRC 65457 and the State CEQA Guidelines CCR Section 15151), the DEIR should be revised to incorporate the results of current geotechnical reports for the project site.*

See responses to comments Teichert-4-2, Teichert-4-61, and Teichert-4-63.

Teichert-4-63 *The comment states that Mitigation Measure 3A.7-1a constitutes deferral because it does not include “specific measures” or performance standards. Therefore, there is no reason to conclude that the impact can be feasibly reduced to a less-than-significant level.*

Geotechnical reports for the entire project site must be prepared consistent with the CBC. This is required by California law, regardless of whether or not it is included in the DEIR/DEIS as a mitigation measure. No requirement is mandated that geotechnical reports be prepared for any CEQA analysis. Mitigation Measure 3A.7-1a (DEIR/DEIS page 3A.7-27) contains a 12-point bulleted list of the required components of the report along with several paragraphs of descriptive text, all of which constitute performance standards. Mitigation Measure 3A.7-1a also contains the statement that “Design and construction of all new project development shall be in accordance with the CBC.” The requirements of the CBC are codified in several thousand pages of text; it would not be feasible, nor is it necessary, to reproduce the contents of the CBC as part of Mitigation Measure 3A.7-1a. Therefore, the mitigation is not deferred and the City believes that the DEIR/DEIS appropriately discloses that reliance on the CBC, which was specifically designed to reduce seismic hazards to the maximum extent practicable, would reduce the impact to a less-than-significant level (DEIR/DEIS page 3A.7-28). See also response to comment Teichert-4-61, and Master Response 9 – Deferred and/or Hortatory Mitigation and Master Response 10 – Programmatic Nature of Analysis (in the FEIR/FEIS).

Teichert-4-64 *The comment states that future preparation of a seismic refraction survey is required as part of Mitigation Measure 3A.7-4a, but the DEIR does not specify the types of measures to be used or any performance standards to ensure that the impact would be mitigated to a less-than-significant level.*

Mitigation Measure 3A.7-4a does not exist. The City assumes that the commenter is referring to Mitigation Measure 3A.7-4. Mitigation Measure 3A.7-4 (DEIR/DEIS page 3A.7-32) requires the performance of a seismic refraction survey. A seismic refraction survey consists of a survey performed by a geotechnical engineer to determine the refraction potential of underlying rock. It is not necessary for this mitigation measure to contain anything more than it already states (i.e., perform the required survey); therefore, the mitigation is not deferred. The DEIR/DEIS does not say that implementation of Mitigation Measure 3A.7-4 alone would reduce the impact to a less-than-significant level. Rather, the DEIR/DEIS explains (on page 3A.7-33), that implementation of the combination of Mitigation Measures 3A.7-1a and 3A.7-4 would reduce potential geologic hazards from construction in bedrock/rock outcroppings to a less-than-significant level because a seismic refraction survey would be performed to determine which areas of the eastern foothills required blasting and which could be excavated using conventional methods; appropriate permits would be obtained for blasting activities; and the project components would be appropriately designed and methodologies would be implemented as required by the CBC (which has been designed to reduce the loss of life and property associated with geologic hazards to the maximum extent practicable).

Teichert-4-65 *The comment states that for the reasons listed in comments Teichert-4-59 through Teichert-4-64, the DEIR should be revised.*

For the reasons stated above in responses to comments Teichert-4-59 through Teichert-4-64, the City does not believe that any revisions to the DEIR are required.

Teichert-4-66 *The comment states that prior comment Teichert-4-63 (related to Mitigation Measure 3A.7-1a) also applies to Mitigation Measure 3B.7-1a.*

See response to comment Teichert-4-63.

Teichert-4-67 *The comment states that DEIR Impact 3A.8-2 incorrectly concludes that project could result in a potentially significant impact from exposure to on-site materials because Phase I environmental site assessments have been conducted for only a portion of the project site, rather than the entire site.*

This EIR/EIS has been prepared at program level and conservatively assumes that if one portion of the project site is subject to hazards from on-site materials, the entire site is considered to be potentially subject to hazards from on-site materials. Therefore, the City believes that the impact conclusion is correct and appropriate for this program-level of analysis. See also Master Response Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS.

*The comment also states that preparation of future Environmental Site Assessments (as required in Mitigation Measure 3A.8-2) constitutes deferral of mitigation as discussed in comment Teichert-4-70.*

Comment Teichert-4-70 claims that because Phase I and II Environmental Site Assessments have not been completed for the entire project site, there is no assurance that the risks associated with hazardous materials can be reduced to a less-than-significant level. As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, “Introduction,” this project is a specific plan which is proposed for implementation over the next 20 years, and the DEIR/DEIS was prepared at a program level of analysis. Mitigation Measure 3A.8-2 contains a 3-point bulleted list and several paragraphs of text that serve as performance standards that would apply to contamination that may be encountered; therefore, the mitigation is not deferred. Furthermore, it is neither required nor necessary to prepare Phase I or Phase II Environmental Site Assessments for the entire project site for this program-level EIR/EIS. As stated on DEIR/DEIS page 3A.8-22, implementation of Mitigation Measure 3A.8-2 would reduce significant impacts from potential human health hazards from possible exposure to hazardous materials to a less-than-significant level because the entire SPA would be evaluated through the Phase I and/or Phase II Environmental Site Assessment processes, a site plan identifying remediation activities and setting forth procedures to appropriately handle hazardous materials (if any are encountered) would be prepared, and hazardous substances that are encountered would be removed and properly disposed of by a licensed contractor in accordance with Federal, state, and local regulations. See also Master Response 9 – Deferred and/or Hortatory Mitigation and Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS.

Teichert-4-68 *The comment states that in the absence of geotechnical reports for the entire project site, the DEIR's "blanket potentially significant" conclusion (in Impact 3A.8-2, Exposure to Hazardous Materials) regarding potential hazards does little to inform decision makers regarding the actual environmental consequence of the project.*

The presence or absence of geotechnical reports is unrelated to whether or not hazardous materials may be present at the project site, and is also unrelated to Impact 3A.8-2.

Teichert-4-69 *The comment states that because no additional CEQA analysis will be required for subsequent residential housing that is consistent with the FPASP (citing PRC Section 65457 and State CEQA Guidelines CCR Section 15151), the DEIR should be revised to include the results of Phase I environmental site assessments for the entire project site.*

See responses to comments Teichert-4-2 and Teichert-4-67.

Teichert-4-70 *The comment states that Mitigation Measure 3A.8-2 requires future preparation of additional Phase I and/or Phase II environmental site assessments. The comment states that without knowing the precise location and extent of any contamination that may be present, there is no assurance that the risks associated with such contamination would be reduced to an acceptable level, and that this constitutes deferral of mitigation.*

See response to comment Teichert-4-67.

Teichert-4-71 *The comment states that Mitigation Measure 3A.8-5 relies on future preparation and implementation of a blasting plan. The comment states that a draft blasting plan should have been prepared and circulated with the DEIR as evidence to support the conclusion that this plan would reduce impacts to a less-than-significant level. The comment also states that future preparation of this plan constitutes deferral of mitigation.*

Mitigation Measure 3A.8-5 (DEIR/DEIS pages 3A.8-30 and 3A.8-31) contains a 4-point bulleted list and several paragraphs of text that serve as performance standards; therefore, the mitigation is not deferred. As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, "Introduction," this project is a specific plan which is proposed for implementation over the next 20 years, and the DEIR/DEIS was prepared at a program level of analysis. It is not possible to prepare a blasting plan at this stage of the project because the precise types and site-specific locations of future development have not yet been designed to a level that would allow a site-specific blasting plan to be prepared. See also Master Response 9 – Deferred and/or Hortatory Mitigation and Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS.

Teichert-4-72 *The comment states that the DEIR requires future preparation of a vector control plan (Mitigation Measure 3A.8-5) as mitigation for health hazards from mosquitoes associated with public water features, and that a draft of such plan should have been circulated with the DEIR. The comment states that Mitigation Measure 3A.8-5 does not identify any specific measures or performance standards, and therefore there is no evidence that the impact would be reduced to a less-than-significant level.*

Mitigation Measure 3A.8-5 (DEIR/DEIS pages 3A.8-34 and 3A.8-35) contains a 17-point bulleted list and several paragraphs of text that serve as performance standards. The City believes that the listed performance standards provide the necessary evidence that the impact would be reduced to a less-than-significant level. As explained throughout the FEIR/FEIS and in DEIR/DEIS Chapter 1, "Introduction," this project is a specific plan which is proposed for implementation over the next 20 years, and the DEIR/DEIS was

prepared at a program level of analysis. It is not possible to prepare a vector control plan at this stage of the project because the precise details of the public water features have not been designed to a level that would allow preparation of the referenced plan. See also Master Response 9 – Deferred and/or Hortatory Mitigation and Master Response 10 – Programmatic Nature of Analysis, in the FEIR/FEIS.

Teichert-4-73 *The comment states that for the reasons listed in comments Teichert-4-67 through Teichert-4-72, the DEIR should be revised.*

For the reasons listed in responses to comments Teichert-4-67 through Teichert-4-72, the City does not believe that any revisions are required.

Teichert-4-74 *The comment states that the DEIR concludes that Impact 3A.9-6 is less than significant for the “Land” components of the project, but does render a significance conclusion for the combined “Land” and Water” components related to groundwater recharge.*

See response to comment Teichert-2-84 in the FEIR/FEIS.

Teichert-4-75 *The comment states that the DEIR should include a draft drainage plan based on the conceptual WTP layout provided on Exhibit 2-27, page 2-87 of the DEIR, and that the DEIR should demonstrate how the proposed measures in Mitigation Measure 3B.9-3a would reduce impacts to less-than-significant levels.*

The comment takes Exhibit 2-27 of the DEIR/DEIS out of the context in which it was intended. As provided on page 2-86 of the DEIR/DEIS, Exhibit 2-27 provides a conceptual layout for the WTP; not an actual site plan. Based on the programmatic nature of the DEIR/DEIS, the actual placement and design of the WTP are still being developed. In addition, as discussed in the responses to comments Teichert-4-20 and Teichert-4-21, mitigation measures may specify performance standards that would mitigate the significant effect of the project and which may be accomplished in more than one specified way. (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1020-1022, 1029-1030; *Gray v. County of Madera* (2008) 167 Cal.App.4<sup>th</sup> 1099, 1126-1127; State CEQA Guidelines, 14 CCR Section 15126.4[a][1][B].) Mitigation Measure 3B.9-3 (DEIR/DEIS page 3B.9-26) requires the maintenance of peak runoff from the WTP at pre-construction conditions and includes performance standards. See also response to comment USBR-76 in the FEIR/FEIS.

Teichert-4-76 and  
Teichert-4-77

*The comments suggest that the project may result in a new diversion on the Sacramento River that has not been analyzed and which may constitute a new significant impact that requires recirculation of the DEIR. The comments also state that the project used the incorrect baseline.*

See Master Responses 13 through 18 in the FEIR/FEIS. In preparing the analysis of potential impacts of the Off-site Water Facility Alternatives, the City made several assumptions in relation to existing water use and Central Valley Project (CVP) operations. As noted on pages 1-12 and 1-13 of the DEIR, under Natomas Central Mutual Water Company (NCMWC’s) settlement contract, approval by the Bureau of Reclamation (Reclamation) would be necessary to implement the proposed assignment of 8,000 acre-feet per year (AFY) of “Project” water available under that contract to the City. The analysis of impacts in DEIR/DEIS Chapter 3, “Affected Environment, Environmental Consequences, and Mitigation Measures,” and Chapter 4, “Other

Statutory Requirements” of the DEIR assumes that the assignment would occur, with Reclamation’s approval, under the following conditions:

- ▶ NCMWC might divert its full contract supplies of 120,200 AFY in any given year, consistent with Reclamation’s long-term renewal of NCMWC’s settlement contract (2005), for the duration of its 40-year contract;
- ▶ Diversion of the assigned “Project” water would be shifted from the months of July and August to a year-round municipal and industrial (M&I) schedule, with these supplies stored in Shasta Reservoir;
- ▶ The 25% diversion reduction in certain critically dry years (stated in Article 5(a) of the Natomas-CVP settlement contract), would govern the City’s diversions of the assigned “Project” water following the assignment; and
- ▶ Diversion of the assigned “Project” water would occur at the Freeport Regional Water Authority’s facility and within that facility’s existing capacity.

These assumptions are critical to understanding how the City defined the environmental baseline for the assessment of impacts within Zones 1, 2, and 3 of the “Water” Study Area. As an example, the 2007 Wagner and Bonsignore evaluation provided in Appendix M2 of the DEIR/DEIS indicates that NCMWC did not use its full contract entitlement in either 2004 or 2007. NCMWC’s actual water use does not negate the fact that NCMWC could have used its entire contract supply in either year or in future years, subject to the contractual 25% shortage provision. Further, it is important to note that NCMWC’s water use is largely contingent on agricultural commodity prices and demand, which can vary significantly from year to year. The full use of NCMWC’s Base Supply and “Project” water supplies was considered appropriate for the analysis presented in the DEIR/DEIS for three important reasons, discussed below.

First and as described in Master Response 13 – Relationship of the “Water” Component of the Project to the Natomas Central Mutual Water Company and the U.S. Bureau of Reclamation (in the FEIR/FEIS), in 2005, NCMWC and Reclamation executed a renewed settlement contract at an amount of 120,200 AFY. A portion of the “Project” water available under that contract is the source water supply for the Off-site Water Facility Alternatives. This supply was covered under an EIS for NEPA compliance, and the Record of Decision (ROD) subsequently was approved in 2005. In addition, this diversion is considered in Reclamation’s Operating Criteria and Plan (OCAP) (2004 and 2008) and is factored into the baseline for the California Simulation Model II (CalSim II) modeling, in which the effects to the Sacramento River and CVP-State Water Project (SWP) were evaluated. This is consistent with the approach Reclamation used in its EIS and ROD for the long-term renewal of the Sacramento River settlement contracts (SRSC). Since the public circulation of the DEIR/DEIS, the California Court of Appeal also has issued a decision that supports the DEIR/DEIS’s approach in using the full amount of NCMWC’s settlement contract. Specifically, in *Cherry Valley Pass Acres and Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, the Court of Appeal upheld an EIR for a proposed development that used (as the EIR’s baseline for water supply impact analysis) the full amount of a groundwater right associated with the relevant property under a stipulated groundwater adjudication where water use on the property had declined between the time that the adjudication occurred and the time that the EIR was prepared (*Cherry Valley, supra*, 190 Cal.App.4th on pages 335-346). The City’s reliance on the full amount of NCMWC’s settlement contract would be similar because that contract states the continuing terms under which Reclamation and NCMWC have

agreed to resolve their dispute concerning the CVP's impacts on NCMWC's pre-CVP water rights. That settlement contract, therefore, has the same function as the stipulated groundwater adjudication in *Cherry Valley* and provides an appropriate basis for the analysis in the DEIR/DEIS.

Second, the City cannot speculate as to what other beneficial uses Reclamation could supply with NCMWC's unused CVP "Project" water supplies. NCMWC's unused water could remain in storage in Shasta Reservoir, be delivered to another CVP contractor either north or south of the Delta, or be used to support Delta outflows either through inflow-bypass or storage releases. In addition, under the Central Valley Project Improvement Act (CVPIA), NCMWC could transfer that unused supply annually in the area of origin (CVPIA Sections 3405[a][1][A], 3405[a][1][M]). In the absence of speculation by the City and in considering Reclamation's recent renewal of NCMWC's settlement contract (i.e., the full contract amount, subject to contract shortage provisions), the full contract amount is adequate for the purposes of characterizing existing conditions and analyzing potential impacts.

Third, and as detailed in Master Response 14 – Relationship of the "Water" Component of the Project to the Freeport Regional Water Project (in the FEIR/FEIS), the City would be diverting water only within the Freeport Project's existing and permitted capacity. The Freeport EIR/EIS provides the supporting NEPA coverage for these operations. Reclamation already has accounted for and has the Freeport Project's operations incorporated into its OCAP (2004 and 2008). Accordingly, Reclamation's operations already account for diversion of the water that the City would divert under the Off-site Water Facility Alternatives, either at NCMWC's existing diversion or at the Freeport Project.

Based on these assumptions, it is reasonable to conclude that the Off-site Water Facility Alternatives could create a minor reoperation effect for Reclamation's Sacramento River Division as a result of the change in delivery schedule from agriculture to M&I. This effect is evaluated at both the project and cumulative levels in the DEIR/DEIS. Project-related impacts to CVP operations are specifically shown in Table 3B.9-3 on page 3B.9-29 and discussed on pages 3B.9-28 through 3B.9-30 of the DEIR/DEIS, and were concluded to be less than significant. Potential cumulative effects to the CVP-SWP system are discussed on pages 4-40 and 4-41 of the DEIR/DEIS and were not considered to be cumulatively considerable, based on the small quantity of water involved in relation to the 9 million acre-feet (MAF) of total supplies within the CVP-SWP system.

Notwithstanding these considerations, assuming that Reclamation ultimately approves the proposed assignment, Reclamation might seek to do so under conditions other than those assumed by the DEIR/DEIS, including but not limited to different or additional shortage or limited liability provisions, changes in the point of diversion, changes in the season of diversion, and/or an alternative water supply. If Reclamation were to seek to approve the proposed assignment subject to conditions other than those assumed by this DEIR/DEIS, then a subsequent or supplemental environmental document might be required to support any such decision to approve the proposed assignment. In such case, Reclamation would be the NEPA lead Federal agency. To the extent that further CEQA analysis would be required, the City would be the lead agency for CEQA review. Reclamation might also be required to undertake further environmental analysis to comply with other Federal laws, such as the Endangered Species Act.



Teichert-4-78

*The comment states that for the reasons listed in comments Teichert-4-75 through Teichert-4-77, the DEIR should be revised to use “the appropriate environmental baseline” in assessing the impacts of the proposed diversions from the Sacramento River and to provide further details regarding drainage mitigation.*

See responses to comments Teichert 4-75 through Teichert 4-77, as well as Master Responses 13 through 18 in the FEIR/FEIS. The DEIR/DEIS correctly and appropriately defined the environmental baseline in assessing the proposed diversions from the Sacramento River. Additionally, the City has provided adequate performance standards in Mitigation Measures 3B.9-3a and 3B.9-3b to address drainage impacts from the Off-site Water Facility Alternatives as required by CEQA. (See *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1020-1022, 1029-1030; *Gray v. County of Madera* (2008) 167 Cal.App.4<sup>th</sup> 1099, 1126-1127; State CEQA Guidelines, 14 CCR Section 15126.4[a][1][B].)

Teichert-4-79

*The comment states that “the DEIR discusses cancellation as an option for complying with the Williamson Act.” The comment also states that “given the difficulty in making the required cancellation findings under the Williamson Act” (citing PRC Section 51282) and the “high likelihood of a successful legal challenge to such findings,” the DEIR should also consider the alternative of delaying project development until after the nonrenewal period has run. The comment notes that notices of nonrenewal have already been filed for the Williamson Act contracts on the project site and those contracts will expire in 2014 and 2016.*

The commenter’s meaning regarding his statement that “the DEIR/DEIS discusses cancellation as an option for complying with the Williamson Act” is unclear. The DEIR/DEIS does not evaluate compliance with the Williamson Act. Rather, the DEIR/DEIS evaluates whether or not the project would “conflict with existing zoning for agricultural use or a Williamson Act contract” (see DEIR/DEIS page 3A.10-28). As discussed on DEIR/DEIS page 3A.10-41, approximately 1,530 acres of the SPA consist of agricultural lands under existing Williamson Act contracts. Notices of nonrenewal were filed on these parcels in 2004 and 2006; as a result, these existing contracts will expire in 2014 and 2016, respectively. Therefore, project development on those parcels that would not expire until 2014 and 2016 would require the cancellation of one or more of these Williamson Act contracts before their expiration date. This is not an “option” as suggested by the commenter; rather, this is part of the proposed project.

As further explained on DEIR/DEIS page 3A.10-42, “Because the timing of the development of particular phases of the SPA is unknown at this time..., future Williamson Act cancellation requests would be submitted on an as-needed basis, in conjunction with tentative map or other entitlement actions. The project applicant(s) for development of parcels under Williamson Act contract would need to apply to the City of Folsom for contract cancellation; as a result, the actual determination of consistency with the statutory consistency requirements would be made by the Folsom City Council, as it would succeed to the contracts upon annexation of the SPA. The City would be required to make findings supporting the cancellation of all Williamson Act contracts pursuant to California Government Code Section 51282 by determining if the cancellation is consistent with the purpose of the California Land Conservation Act or the cancellation is in the public interest...”

The commenter’s statements regarding the “difficulty” of making the required cancellation findings and the “high likelihood of a successful legal challenge” are statements of the commenter’s opinion that are based on speculation rather than facts.

(See State CEQA Guidelines CCR Section 15384[b] [argument, speculation, and unsubstantiated opinion are not substantial evidence of an environmental impact].)

Chapter 2, “Alternatives” of the DEIR/DEIS (page 2-14) states that implementation of the Proposed Project Alternative or the other four action alternatives would occur over an approximately 20-year period, with construction beginning in 2011 or 2012. The City does not consider that waiting until 2014 or 2016 for development on parcels which are currently under Williamson Act contracts would constitute feasible mitigation, because a measureable delay of the project that could have substantial financial repercussions for the project applicant(s) and the City (depending on market demand) would occur. The analysis provided in the DEIR/DEIS is intended to be conservative and describes a worst-case scenario in which the development of parcels under Williamson Act contracts would occur immediately.

Teichert-4-80

*The comment states that the DEIR’s conclusion (related to Impact 3A.10-4) that the project may lead to cancellation of Williamson Act contracts on surrounding lands is unlikely given the “difficulty” in making the required cancellation findings under the Williamson Act (citing to PRC Section 51282). The comment states that a more realistic scenario would be that property owners would file notices of nonrenewal and wait 9 years for the nonrenewal period to run.*

Assuming that the scenario suggested by the commenter occurred, there would be no impact under Impact 3A.10-4. Despite this fact, the commenter apparently does not believe that the significance conclusion for Impact 3A.10-4 should be changed from “potentially significant and unavoidable” to “no impact.” Furthermore, the commenter provides a statement of opinion that is based on speculation rather than facts. (See State CEQA Guidelines CCR Section 15384[b] [argument, speculation, and unsubstantiated opinion are not substantial evidence of an environmental impact].) The City has taken a conservative approach to the analysis of Impact 3A.10-4, and does not believe that changes to text of the DEIR/DEIS are warranted.

Teichert-4-81

*The comment states that page 3A.10-43 of the DEIR contains a statement that the Teichert Quarry project would require Williamson Act cancellation, and that statement is inaccurate because the prior Williamson Act contract on the quarry project site expired in 2008.*

See responses to comments Sac Cnty-2-32 and Sac Cnty-2-33 in the FEIR/FEIS.

Teichert-4-82

*The comment states that for the reasons listed in comments Teichert-4-79 through Teichert-4-81, the DEIR should be revised.*

For the reasons stated in responses to comments Teichert-4-79 through Teichert-4-81, the City does not believe that any revisions to the DEIR are necessary.

Teichert-4-83

*The comment states that for Impact 3B.10-3 on pages 3B.10-17 through 3B.10-19 of the DEIR, the discussion concludes that the impact would be less than significant for the conversion of important farmland to nonagricultural uses for the proposed “Land” component of the project but does not render a significance conclusion with respect to the combined impacts of “Land” and “Water” components on all types of agricultural land. Therefore, the DEIR should be revised.*

The commenter does not identify any specific impact from the project that he claims was not addressed or incorrectly analyzed by the City’s choice to provide “Land” and

“Water” analyses and discussions to provide the most comprehensive and easily understandable impact analyses. As explained in the City’s response to comments Teichert-2-15 through Teichert-2-16 (in the FEIR/FEIS) and Teichert-4-19, the City’s choice to provide detailed analyses of all aspects of the project using the “Land” and “Water” analyses was appropriate and did not result in any impacts of the overall project being overlooked or unaddressed.

Impact 3B.10-3 (DEIR/DEIS pages 3B.10-17 through 3B.10-19) accurately describes the level of impact for each of the Off-site Water Facility Alternatives as related to conversion of important farmland. These impacts were determined to be less than significant. With regards to the “Land” alternatives, no important farmlands as defined under PRC Sections 21060.1 and 21095 and State CEQA Guidelines Appendix G are located within the SPA. Therefore, no impact would occur. As discussed on pages 4-44 to 4-45 of the DEIR/DEIS, the cumulative impacts to important farmlands from the “Land” component when considered with the related projects, and including the “Water” component of the project, were determined not to be cumulatively considerable. Furthermore, this issue is discussed further in Section 4.2.3, “Growth-Inducing Impacts of the Project” on page 4-66 of the DEIR/DEIS, both in terms of the potential for urban encroachment beyond Sacramento County’s urban services boundary (USB) and the future integration of recycled water supplies, which could stretch the ability of the project’s water supply to accommodate additional development. Therefore, the combined impacts of the “Land” and “Water” components in terms of conversion of important farmlands are appropriately considered in the DEIR/DEIS.

Teichert-4-84

*The comment, regarding Impact 3B.10-4, states that the DEIR discusses cancellation as an option for complying with the Williamson Act but does not address the other possibility of filing a notice of non-renewal and delaying project development until the conclusion of the 9-year non-renewal period.*

The comment is incorrect for several reasons. First, the commenter states that “the DEIR/DEIS discusses cancellation as an option for complying with the Williamson Act.” However, the DEIR/DEIS does not evaluate compliance with the Williamson Act. Rather, the DEIR/DEIS evaluates whether or not the project would “conflict with existing zoning for agricultural use or a Williamson Act contract” (see DEIR/DEIS page 3B.10-12). Second, the comment fails to recognize that, under the Williamson Act, the City’s acquisition of the site would cause the relevant contract to terminate, whether or not the contract was in its non-renewal period. (See PRC Section 51295.) Third, as discussed on page 3B.10-7 of the DEIR/DEIS, the White Rock WTP site under Offsite Water Facility Alternatives 1, 1A, 3, and 3A is already under non-renewal status with the notice of non-renewal filed in 2008. Thus, the option suggested in the comment is not possible in light of the current filing status. Fourth, the delay associated with allowing the non-renewal period to expire makes the commenter’s proposed mitigation measure infeasible and therefore improper. (See PRC Section 21002; State CEQA Guidelines, 14 CCR Sections 15126.4[a][1] and 15364.) The “Water” portion of the project is necessary for new development within the “Land” portion of the project, so a mitigation measure that would involve substantial delays in the “Water” portion would not be consistent with the full project’s objectives. Fifth, this type of optional mitigation would conflict with other mitigation in the DEIR/DEIS, including Mitigation Measures 3A.18-2a and 3A.18-2b. Therefore, the impact to affected Williamson Act-contracted lands under the Off-site Water Supply Alternatives is appropriately analyzed in the DEIR/DEIS. Sixth, as discussed page 2-1 of the FEIR/FEIS, the White Rock WTP site is not the proposed project for CEQA purposes. That site is an alternative considered at an equal level of

detail as required by NEPA. Accordingly, the comment does not address a project impact under CEQA. Finally, the DEIR/DEIS concluded that this impact would be significant and unavoidable and the commenter does not question that significance conclusion.

Teichert-4-85

*The comment questions how Mitigation Measure 3B.10-4 would reduce temporary disruptions to existing agricultural operations to a less-than-significant level.*

Mitigation Measure 3B.10-4 does not exist. The City assumes the commenter is referring to Mitigation Measure 3B.10-5 on page 3B.10-20 of the DEIR/DEIS, which would require the restoration of affected agricultural lands to pre-project conditions and the payment of compensation to farmers for the loss of crops and associated revenues. As a result, the physical impacts to the agricultural lands affected would be temporary. Compensation for lost revenues would make the farmers whole for their loss of production and therefore would eliminate any possibility that the project's impacts would result in economic damage to farmers that would impede their continuing agricultural operations. Because these impacts are temporary, the agricultural land would be returned to pre-project conditions, and the farmers would be compensated for their loss, the DEIR/DEIS appropriately found that the impact would be reduced to a less-than-significant level after mitigation implementation.

Teichert-4-86

*The comment states that for the reasons listed in comments Teichert-4-83 through Teichert-4-85, the DEIR must be revised to analyze the combined agricultural impacts of the "Land" and "Water" components of the project, to provide additional discussion regarding the Williamson Act contracts, and to address concerns regarding the adequacy of agricultural mitigation.*

For the reasons stated in responses to comments Teichert 4-83 through Teichert 4-85, the City does not believe that any revisions to the DEIR or additional analyses are necessary.

Teichert-4-87

*The comment makes reference to attached comments provided by Bollard Acoustical Consultants, Inc. (BAC). The comment states that the DEIR does not provide the distances to the centerlines of nearby roadways from the ambient noise measurement locations listed in Table 3A.11-1.*

The comments from BAC were reviewed. See responses to comments Teichert-2-104 through Teichert-2-105 in the FEIR/FEIS. The City notes that the comments provided by BAC as an attachment to the Teichert letter submitted to the City appear to be identical to the comments from BAC provided as an attachment to the letter submitted by Teichert to Lisa Gibson at the USACE. Therefore, responses to all comments submitted by BAC are contained in responses to comments Teichert-2-189 through Teichert-2-232 in the FEIR/FEIS.

Teichert-4-88

*The comment refers to BAC noise comments, and states that Table 3A.11-2 should be modified to include an additional column that provides the modeled distance for each segment.*

See response to comment Teichert-2-106 in the FEIR/FEIS.

- Teichert-4-89 *The comment refers to BAC’s comments regarding whether the traffic noise measurement results presented in Table 3A.11-1 were used to verify the accuracy of the Federal Highway Administration (FHWA) model in predicting existing traffic noise levels in the project area.*
- See response to comment Teichert-2-107 in the FEIR/FEIS.
- Teichert-4-90 *The comment refers to BAC’s comments that the use of the FHWA model’s “hard” versus “soft” acoustical setting in assessing traffic noise (in the Affected Environment of Section 3A.11) resulted in a “gross mischaracterization of cumulative traffic noise exposure that may have resulted in the identification of significant impacts where none would occur,” and therefore the DEIR should be recirculated.*
- See responses to comments Teichert-2-108 through Teichert-2-109 in the FEIR/FEIS.
- Teichert-4-91 *The comment refers to BAC’s comments regarding Impact 3A.11-4, stating that the traffic noise levels shown in Table 3A.11-18 should be rerun using a “soft” instead of a “hard” acoustical setting, and the revised analysis should be recirculated for public review.*
- See responses to comments Teichert-2-108 through Teichert-2-109, and Teichert-2-189 through Teichert-2-232 in the FEIR/FEIS.
- Teichert-4-92 *The comment refers to BAC’s comments regarding Impact 3A.11-7 and states that the DEIR does not provide the distances to the 60 dBA Ldn contours for existing and future conditions with the project. The comment also states that the analysis should be rerun using a “soft” acoustical setting, and that the DEIR should be recirculated.*
- See responses to comments Teichert-2-108 through Teichert-2-109 and Teichert-2-112 in the FEIR/FEIS.
- Teichert-4-93 *The comment states that because the use of the incorrect model inputs may have resulted in the identification of significant impact where none would occur, the revised analysis should be recirculated for public review.*
- As explained in responses to comments Teichert-2-108 through Teichert-2-109 in the FEIR/FEIS, the City believes that the correct “hard” acoustical setting was used for the traffic noise modeling presented in the DEIR/DEIS. Furthermore, for informational purposes only, Appendix U to the FEIR/FEIS contains a model run showing the results of using a “soft” acoustical setting (as requested by the commenter); the results show that there is no statistically significant difference between the two types of modeling for this project. Since the appropriate noise modeling techniques were used, the conclusions presented in the DEIR/DEIS are correct; thus, the analysis does not need to be revised, and there is no reason to recirculate the DEIR/DEIS. See also Master Response 11 – Disagreement Regarding the Conclusions in the DEIR/DEIS, in the FEIR/FEIS.
- Teichert-4-94 *The comment states that for the reasons listed in comments Teichert-4-87 through Teichert-4-93, the DEIR should be revised.*
- For the reasons stated in responses to comments Teichert-4-87 through Teichert-4-93, the City does not believe that any revisions to the DEIR/DEIS are necessary.

Teichert-4-95 *The comment states that Teichert will be submitting comments on the traffic section under separate cover.*

This City notes that this comment was purportedly submitted on September 10, 2010. Since that time, 8 months have elapsed, and no traffic comments have been received. Furthermore, pursuant to PRC Section 21092.5(c), the lead agency is not required to respond to comments not received within the specified comment periods. Pursuant to the State CEQA Guidelines CCR Section 15088, "The Lead Agency shall respond to comments received during the noticed comment period..." In this case, the noticed comment period ended on September 10, 2010. See also Response to Comment Teichert 4-117.

Teichert-4-96 *The comment states that the cumulative impact analysis related to air quality on pages 4-23 through 4-26 of the DEIR incorrectly addressed the incremental contribution of the three aggregate mining operations on the project, instead of assessing the project's incremental contribution to cumulative impacts.*

See Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.

Teichert-4-97 *The comment refers to attached comments from Rimpo and Associates, Inc. regarding the TAC analysis, stating that the DEIR relies on inappropriate thresholds of significance, uses methodology that is inconsistent with the SMAQMD's protocol, inappropriately employs 2010 emission factors that "grossly overstate" potential impacts, and that "critical information necessary to analyze the adequacy of the DEIR's conclusions" has been omitted from the DEIR and Appendix C.*

The comments from Rimpo and Associates, Inc. were reviewed. See response to comment Teichert-2-34; Master Response 6 – Quarry Trucks and TAC Exposure; and Master Response 11 – Disagreement Regarding the Conclusions of the DEIR/DEIS (all of which are contained in the FEIR/FEIS). The City does not believe that any critical information was omitted from the analysis contained in Section 3A.2 "Air Quality" of the DEIR/DEIS or from DEIR/DEIS Appendix C; see response to comment Teichert-2-36 in the FEIR/FEIS. The City notes that the comments provided by Rimpo and Associates, Inc. as an attachment to the Teichert letter submitted to the City appear to be identical to the comments from Rimpo and Associates, Inc. provided as an attachment to the letter submitted by Teichert to Lisa Gibson at the USACE. Therefore, responses to all comments submitted by Rimpo and Associates, Inc. are contained in responses to comments Teichert-2-157 through Teichert-2-188 in the FEIR/FEIS.

Teichert-4-98 *The comment states that Cumulative Mitigation Measure AIR-1-Land requires the three aggregate mining operators to voluntarily implement mitigation measures to reduce cumulative TAC exposure at the SPA. The comment states that voluntary mitigation does not comply with CEQA (citing State CEQA Guidelines CCR Section 15126.4[2]).*

See Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.

Teichert-4-99

*The comment states that if quarry project applicants decline to implement the voluntary mitigation, the DEIR states that Cumulative Mitigation Measure AIR-1-Land would still reduce the impact of TAC exposure from quarry trucks to a less-than-significant level because the City could adopt truck route restrictions, which may not be legally feasible. The comment states that the DEIR does not discuss how the imposition of truck route restrictions would mitigate the impact.*

As stated on DEIR/DEIS pages 4-51 and 4-52, the City could designate truck routes consistent with California Vehicle Code Section 21101(c), including truck routes in the SPA, so as to prohibit or limit quarry trucks' use of City roads adjacent to areas where projected truck traffic volumes would otherwise result in exposure of sensitive receptors to operational air quality emissions and noise from quarry truck traffic and/or traffic safety hazards. If the quarry trucks were banned from passage along SPA roadways, clearly there would be no impact to SPA residents from quarry truck TAC emissions. See also Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.

Teichert-4-100

*The comment states that the imposition of truck route restrictions would result in the redistribution of quarry truck traffic to other roadways that could result in new significant traffic, noise, air quality, climate change, and other environmental impacts that are not addressed in the DEIR. The comment states that since CEQA requires that secondary environmental impacts from implementation of mitigation measures be identified (citing State CEQA Guidelines CCR Section 15126.4[a][I][D]), the DEIR should be recirculated.*

See Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach and Master Response 12 – DEIR/DEIS Recirculation is Not Required, in the FEIR/FEIS.

Teichert-4-101

*The comment states that the cumulative impact analysis related to noise on pages 4-47 through 4-51 of the DEIR incorrectly addressed the incremental contribution of the three aggregate mining operations on the project, instead of assessing the project's incremental contribution to cumulative impacts.*

See Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.

Teichert-4-102

*The comment refers to attached comments from BAC stating the information in DEIR Table 4-8 was based on the incorrect "hard" acoustical setting rather than the "soft" setting, and that the data in DEIR Table 4-8 do not match the data for the same scenarios presented in DEIR Table 3A.11-19.*

See responses to comments Teichert-2-108 through Teichert-2-109; Teichert-2-133 through Teichert-2-134 (in the FEIR/FEIS); and Teichert-4-93.

- Teichert-4-103 *The comment refers to attached comments from BAC stating that the projected traffic noise contours were generated inappropriately by using the FHWA “hard” setting instead of the “soft” setting, which results in an overestimation of the location of the 60 dB L<sub>dn</sub> noise contour. The comment also states that the cumulative analysis in the DEIR incorrectly addressed the incremental contribution of the three aggregate mining operations on the project, instead of assessing the project’s incremental contribution to cumulative impacts.*
- See responses to comments Teichert-2-108 and Teichert-4-93 in the FEIR/FEIS. See also Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.
- Teichert-4-104 *The comment states that the cumulative analysis in the DEIR incorrectly addressed the incremental contribution of traffic from the three aggregate mining operations on the project, instead of assessing the project’s incremental traffic contribution to cumulative impacts, and that if the CEQA baseline had been properly established, no mitigation would be required for the impacts of the aggregate operations as part of this EIR.*
- See Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.
- Teichert-4-105 *The comment states that Cumulative Mitigation Measure NOISE-1-Land requires the three aggregate mining operators to voluntarily implement mitigation measures to reduce cumulative noise impacts at the SPA. The comment states that voluntary mitigation does not comply with CEQA (citing State CEQA Guidelines CCR Section 15126.4[2]).*
- See Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.
- Teichert-4-106 *The comment states that if quarry project applicants decline to implement the voluntary mitigation, the DEIR states that Cumulative Mitigation Measure NOISE-1-Land would still reduce the impact of noise generated by quarry trucks to a less-than-significant level because the City could adopt truck route restrictions, which may not be legally feasible. The comment states that the DEIR does not discuss how the imposition of truck route restrictions would mitigate the impact.*
- See response to comment Teichert-4-99.
- Teichert-4-107 *The comment states that the imposition of truck route restrictions would result in the redistribution of quarry truck traffic to other roadways that could result in new significant traffic, noise, air quality, climate change, and other environmental impacts that are not addressed in the DEIR. The comment states that since CEQA requires that secondary environmental impacts from implementation of mitigation measures be identified (citing State CEQA Guidelines CCR Section 15126.4[a][I][D]), the DEIR should be recirculated.*
- See Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.
- Teichert-4-108 *The comment refers to attached comments from BAC regarding Cumulative Mitigation Measure NOISE-1-Land.*
- See responses to comments Teichert-2-228 through Teichert-2-232 in the FEIR/FEIS.



- Teichert-4-109 *The comment refers to DEIR text on page 4-73, and states that the Williamson Act contract on the Teichert project site expired in 2008.*
- See responses to comments Sac Cnty-2-32 and Sac Cnty-2-33 in the FEIR/FEIS.
- Teichert-4-110 *The comment states for the reasons listed in comments Teichert-4-96 through Teichert-4-109, the DEIR should be revised.*
- For the reasons stated in responses to comments Teichert-4-96 through Teichert-4-109, the City does not believe that any revisions to the DEIR/DEIS are necessary.
- Teichert-4-111 *The comment states that as indicated in comments submitted by BAC, “critical information necessary to analyze the adequacy of the DEIR’s conclusions” has been omitted from DEIR Appendix C.*
- See response to comment Teichert-2-36 in the FEIR/FEIS.
- Teichert-4-112 *The comment states that “as outlined above” the DEIR is flawed in numerous respects, and the analysis of project impacts is impermissibly segmented into “Land” and “Water” components.*
- For the reasons stated in responses to comments Teichert-4-1 through Teichert-4-111, the City does not believe that the DEIR is flawed in any respect. The City believes that the DEIR properly evaluates “the whole of the action” as required by CEQA and that the analysis is not segmented; see response to comment Teichert-4-5, which incorporates responses to comments Teichert-2-15 through Teichert-2-16 (contained in the FEIR/FEIS).
- Teichert-4-113 *The comment states that the DEIR fails to address “a reasonable range of project alternatives,” including one that relocates sensitive receptors away from high-volume roadways that generate significant noise or TAC impacts.*
- The noise and TAC impacts discussed by the commenter, BAC, and Rimpo and Associates, Inc. (on behalf of the Teichert quarry operator) would be generated by quarry trucks operating on roadways within the SPA. Teichert has been aware for some time that development on the SPA would occur and should have taken the development into account when planning the quarry projects. The quarry operators suggest that the FPASP should be redesigned in order to reduce the impacts of the quarry projects. The suggested redesign of the project to accommodate the quarry operators is not a necessary alternative that the City must consider as part of the DEIR/DEIS process. The DEIR/DEIS contains a reasonable range of alternatives, as required by CEQA. (See State CEQA Guidelines CCR Section 15126.6). See also response to comment Teichert-4-10, which incorporates responses to comments Teichert-2-11 and Teichert-2-12 contained in the FEIR/FEIS.
- Teichert-4-114 *The comment states that the DEIR fails to adequately analyze project impacts related to aesthetics, air quality, biological resources, climate change, geology, hazardous materials, hydrology, noise, and cumulative impacts, “in many cases by deferring critical analysis to subsequent stages of development that may not be subject to CEQA review.”*
- See specifically response to comment Teichert-4-2 and generally responses to comments Teichert-4-4 through Teichert-4-111.

Teichert-4-115 *The comment states that the DEIR improperly defers formation of mitigation until after project approval “for at least 20 significant impacts discussed herein and possibly others not specifically enumerated.”*

With regards to the “20 significant impacts” referred to by the commenter, the commenter cites deferral of mitigation because of a lack of performance standards in comments Teichert-4-7, Teichert-4-14, Teichert-4-24, Teichert-4-31, Teichert-4-42, Teichert-4-61, Teichert-4-63, Teichert-4-64, Teichert-4-66, Teichert-4-67, Teichert-4-70, Teichert-4-71, and Teichert-4-72 (13 impacts). The City does not believe that any mitigation measures in the DEIR/DEIS have been deferred; see responses to comments Teichert-4-4, Teichert-4-7, Teichert-4-14, Teichert-4-24, Teichert-4-31, Teichert-4-42, Teichert-4-61, Teichert-4-63, Teichert-4-64, Teichert-4-66, Teichert-4-67, Teichert-4-70, Teichert-4-71, and Teichert-4-72.

The commenter further claims that “possibly other[s impacts] not specifically enumerated” may also defer the formation of mitigation measures; since the commenter does not present specifics as to any other mitigation measures that he believes are deficient, the City cannot respond with specificity. The City does not believe that any mitigation measures in the DEIR have been deferred; see response to comment Teichert-4-4 and Master Response 9 – Deferred and/or Hortatory Mitigation, in the FEIR/FEIS.

Teichert-4-116 *The comment states that because of issues raised in comments Teichert-4-112 through Teichert-4-115, the DEIR meets the requirements for recirculation as set forth in State CEQA Guidelines CCR Section 15088.5(a)(4).*

For the reasons set forth in responses to comments Teichert-4-1 through Teichert-4-115, the City does not believe that it is necessary to revise the DEIR, nor is recirculation required. See also Master Response 12 – DEIR/DEIS Recirculation is not Required, in the FEIR/FEIS.

Teichert-4-117 *The comment states Teichert will be submitting subsequent comments on the EIR, including comments pertaining to traffic, until the close of the final public hearing on the Project, “as allowed by CEQA,” citing to PRC Section 21177 and Galante Vineyards v. Monterey Peninsula Water Management District.*

The DEIR was released for public review and comment on June 28, 2010, and the comment period closed on September 10, 2010. The City has not received additional comments from the commenter as indicated by the comment. While the court in *Galante Vineyards v. Monterey Peninsula Water Management District* (1997) 60 Cal.App.4th 1109, cited by the commenter, interpreted PRC Section 21177(a) to confer standing to a person to bring a CEQA action if that person commented on the EIR prior to the close of the public hearing on the project, the City notes that PRC Section 21003.1 provides that comments from the public “shall be made to lead agencies as soon as possible in the review of environmental documents including, but not limited to, draft environmental impact reports and negative declarations, in order to allow the lead agencies to identify, at the earliest possible time in the environmental review process, potential significant effects of a project, alternatives, and mitigation measures which would substantially reduce the effects.” In *City of Fremont v. San Francisco Bay Area Rapid Transit District* (1995) 34 Cal.App.4th 1780, 1790, the court stated that “the fact that the issue was asserted at the last possible moment raises serious questions about the [commenter’s] good faith.” (Alterations added.) Finally, in *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 568, the Supreme Court emphasized its “disapproval

of the tactic of withholding objections, which could have been raised earlier in the environmental review process, solely for the purpose of obstruction and delay.”

As noted previously, the comments submitted by BAC and Rimpo and Associates, Inc. as attachments to the Teichert letter purportedly submitted to Gail Furness de Pardo at the City of Folsom on September 10, 2010 are identical to those attached to the September 10, 2010 submitted by Teichert to Lisa Gibson at the USACE. Therefore, please see comments Teichert-2-157 through Teichert-2-232 and the responses thereto contained in the FEIR/FEIS.

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Scott N. Castro  
Direct: (415) 984-9618  
Fax: (800) 849-9031  
SCastro@jmbm.com

Two Embarcadero Center, 5th Floor  
San Francisco, California 94111-3813  
(415) 398-8080 (415) 398-5584 Fax  
www.jmbm.com

May 17, 2011

**VIA EMAIL (SJOHNSON@FOLSOM.CA.US) AND FEDERAL EXPRESS**

Scott Johnson, Planning Manager  
City of Folsom Community Development Department  
50 Natoma St., Folsom, CA 95630  
Folsom, California 95630

**Re: Final EIR/EIS Folsom South of U.S. 50 Specific Plan Project  
(SCH #2008092051)**

Dear Mr. Johnson:

On behalf of Angelo G. Tsakopoulos and Katherine Tsakopoulos ("Tsakopoulos"), we wish to raise a few issues of concern pertaining to the recently released Final EIR/EIS for the City of Folsom's Folsom South of U.S. 50 Specific Plan Project (the "SOI Project"). In our September 10, 2010 comment letter on the Draft EIR/EIS, we identified a host of deficiencies in the analysis and mitigation of potentially significant environmental effects of the SOI Project under CEQA. While the City in its responses to comments addressed our comments in detail, we believe that many of our concerns remain inadequately addressed. 1

One of the chief concerns raised in our September 10, 2010 letter concerned contemplated restrictions on quarry truck traffic through the SPA proposed as mitigations for cumulative project impacts. (See Draft EIR/EIS, Cumulative Mitigation Measures AIR-1-Land and NOISE-1-Land). In the Draft EIR/EIS, the City proposed through these mitigation measures potential restrictions on quarry truck traffic under the claimed authority of Vehicle Code 21101(c). Based upon our comments on behalf of Tsakopoulos, as well as comments from Sacramento County and other quarry operators, the City revised Mitigation Measures AIR-1-Land and NOISE-1-Land to rely upon the Traffic Mitigation Plan ("TMP") as the "first resort" for mitigation of cumulative noise and air quality impacts. (See Final EIR/EIS, Section 5 "Errata", pp. 116-127 and Section 3, Master Response 7.) 2

While Tsakopoulos is encouraged by the City's revision of these mitigation measures in the Final EIR/EIS, there are continuing concerns about the revised measures, as well as the potential for abandonment of the TMP and the resulting need for Folsom to resort to traffic restrictions as contemplated in the Draft EIR/EIS. Indeed, the revised text of Mitigation Measures AIR-1-Land and Noise-1-Land urges the quarry operators to impose voluntary measures to address alleged exposure of sensitive receptors to toxic air contaminants from quarry 3

Scott Johnson  
May 17, 2011  
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truck traffic. In fact, particularly egregious is text contained at the end of both revised Mitigation Measures stating that to the extent the suggested measures "would not already be implemented as part of the Folsom South of U.S. 50 Specific Plan project development, this mitigation should be paid for by the quarry project applicant(s) before any quarry trucks are allowed to pass on any roadway that is within 400 feet of any residence or school within the SPA." (See Final EIR/EIS, pp. 5-118 and 5-126.) Tsakopoulos remains very concerned about Folsom's apparent interest in placing all costs of mitigating cumulative traffic impacts (as well as air and noise impacts) on the quarry operators, and the continuing threat that if this approach to "mitigation" fails, Folsom intends to resort to its secondary approach to mitigation, i.e., restrictions or limitations on quarry truck traffic.

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If Folsom pursues contemplated road closures or restrictions interfering with transport of materials from the quarries, Tsakopoulos will be forced to oppose such efforts before LAFCo. Indeed, such issues already were raised in our September 10, 2011 comment letter which raised concerns that the EIR/EIS failed to account for LAFCo Resolution 1196, including the requirements of paragraphs 4 and 5 for Folsom to mitigate traffic impacts directly associated with the SPA (rather than attempting to "mitigate" by restricting quarry traffic). Furthermore, the minerals at the Wilson Ranch property have been formally classified by the State Mining and Geology Board ("SMGB") as MRZ-2a, and thus LAFCo will need to evaluate the potential for any traffic restrictions imposed by Folsom on the production of these classified minerals. Given that LAFCo likely will be opposed to annexation if traffic restrictions interfere with production of classified minerals, the reliance on such mitigation measures -- even as "secondary measures" -- renders these measures speculative at best.

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Tsakopoulos remains hopeful that all stakeholders can agree on the text of the TMP, and mechanisms for its implementation, that will be fair to all involved parties. However, Tsakopoulos remains concerned that Folsom may abandon this process, and/or refuse to contribute a fair share to the measures contemplated in the TMP. Tsakopoulos is hopeful that the stakeholders can continue to work to implement the TMP to avoid future conflicts regarding these issues.

7

Sincerely,



SCOTT N. CASTRO of  
Jeffer Mangels Butler & Mitchell LLP

SNC:snc

cc: Kerry Shapiro, Esq.  
Angelo G. Tsakopoulos

Tsakopoulos-3-1

*The comment, made on behalf of client Angelo G. Tsakopoulos, states that the prior Tsakopoulos comment letter dated September 10, 2010 identified “a host of deficiencies” in the analysis and mitigation of potentially significant environmental impacts of the project under CEQA. The comment states that while the City responded to those comments in detail, “many of our concerns remain inadequately addressed.”*

This comment is general in nature and therefore a general response is appropriate. The City believes that thorough and appropriate responses to the Tsakopoulos letter dated September 10, 2010 were provided. See responses to comments Tsakopoulos-2-1 through Tsakopoulos-2-245 in the FEIR/FEIS.

Tsakopoulos-3-2

*The comment states that one of the chief concerns raised in the September 10, 2010 letter submitted by Tsakopoulos concerned contemplated restrictions on quarry truck traffic through the SPA (i.e., Cumulative Mitigation Measures AIR-1-Land and NOISE-1-Land). The comment states that the City revised both of these mitigation measures because of comments submitted by Tsakopoulos, Sacramento County, and other quarry operators, to rely on the “Traffic Mitigation Plan” as the “first resort” for mitigation of cumulative noise and air quality impacts.*

The “Traffic Mitigation Plan” referenced by the commenter does not currently exist. The City assumes that the commenter is actually referring to the East Sacramento Regional Aggregate Mining Truck Management Plan, abbreviated as “TMP.” In November 2010, the Sacramento County Board of Supervisors approved various entitlements for the proposed Teichert quarry project in the south-eastern portion of Sacramento County, including a development agreement. The development agreement notes the ongoing participation of the Cities of Folsom and Rancho Cordova, the County, and other interested parties in the development of the TMP and acknowledges that the Board will first have to comply with CEQA before adopting a TMP. The development agreement also commits Teichert to complying with any truck routing redistribution measures contained within any adopted TMP and requires Teichert to contribute its fair share toward the funding of such a program, including measures pertaining to air quality and noise. (Teichert Quarry Development Agreement, Section 2.4.5.A, p. 14.)

Cumulative Mitigation Measures AIR-1-Land and NOISE-1-Land were both revised to incorporate the TMP, which was made a condition of approval of the Teichert Quarry project EIR by the Sacramento County Board of Supervisors in November 2010, two months after the DEIR/DEIS for the Folsom South of U.S. 50 Specific Plan was circulated for public review (see Chapter 5, “Errata” of the FEIR/FEIS, pages 5-114 through 5-120 and 5-124 through 5-127). The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

Tsakopoulos-3-3

*The comment states that while Tsakopoulos “is encouraged” by the City’s revision of the cumulative air and noise mitigation measures, there are “continuing concerns” about the revised measures, as well as the potential for abandonment of the TMP and the resulting need for Folsom to resort to traffic restrictions as contemplated in the DEIR/DEIS. The comment states that the cumulative mitigation measures urge the quarry operators to impose voluntary measures to address “alleged” exposure of sensitive receptors to TACs from quarry truck traffic.*

As part of the DEIR/DEIS (pages 4-22 through 4-24), the City performed an analysis of the potential impacts from exposure of sensitive receptors within the SPA to TACs generated by the proposed quarry truck traffic. The analysis concluded, “...when quarry truck trips are added to modeled roadway segments before the year 2030, traffic volumes within 400 feet of sensitive receptors that would be constructed in the SPA could result in exposure of those receptors to high levels of toxic air contaminants (see Table 4-4 [of the DEIR/DEIS]). Therefore, this direct impact would be potentially significant.” Cumulative Mitigation Measure AIR-1-Land (as shown in FEIR/FEIS Chapter 5, “Errata” pages 5-116 through 5-120) elaborates on the City’s participation, along with participation by other parties, in the TMP. The mitigation measure also states that, “As an alternative (or in addition) to implementing the TMP within the SPA, the following measures could (and should) be voluntarily implemented by the quarry project applicant(s) (Teichert, DeSilva Gates, and Granite [Walltown]) to help ensure exposure of sensitive receptors to TACs generated by quarry truck traffic to the 296-in-one-million threshold of significance identified above.” In addition, the City also has the right to impose truck route restrictions within its jurisdiction consistent with California Vehicle Code Section 21101(c). See Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.

Tsakopoulos-3-4

*The comment states that “particularly egregious text” is contained at the end of Cumulative Mitigation Measures AIR-1-Land and NOISE-1-Land stating that to the extent the suggested measures “would not already be implemented as part of the Folsom South of U.S. 50 Specific Plan project development, this mitigation should be paid for by the quarry project applicant(s) before any quarry trucks are allowed to pass on any roadway that is within 400 feet of any residence or school within the SPA.” The comment states that Tsakopoulos remains concerned about the City’s apparent interest in placing the cost of mitigating cumulative traffic, air, and noise impacts on the quarry operators and that if that approach to mitigation fails, the City intends to resort to restrictions or limitations on quarry truck traffic.*

The City believes that since the stated cumulative noise and air quality impacts on the SPA would be caused directly by the quarry trucks passing through the SPA (see DEIR/DEIS pages 4-22 through 4-24 and 4-47 through 4-51), the quarry operators should pay for the necessary mitigation. The quarry operators have long known that the Folsom South of U.S. 50 Specific Plan was proposed for development, yet the quarry operators failed to consider the project during the quarry planning process. See Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.



Tsakopoulos-3-5

*The comment states that if the City pursues contemplated road closures or restrictions that would interfere with transport of materials from the quarries, Tsakopoulos will be forced to oppose such efforts before the Local Agency Formation Commission (LAFCo). The comment states that such issues were raised in the Tsakopoulos' September 20, 2010 letter claiming that the DEIR/DEIS failed to account for LAFCo Resolution 1196 requiring that the City "mitigate traffic impacts directly associated with the SPA."*

The commenter misstates the requirements of LAFCo resolution 1196, which does not require that the City "mitigate traffic impacts associated with the SPA." LAFCo Resolution 1196 requires the City to adopt an Infrastructure Funding and Phasing Plan for the construction of roadways and transportation improvements that are necessary to reduce traffic impacts resulting from development of the SPA. The quarry truck traffic does not "result from development of the SPA"; rather, the quarry truck traffic results from development of the proposed quarry projects south of White Rock Road. The City is not legally required to implement mitigation for the impacts of other projects.

Tsakopoulos-3-6

*The comment states that the minerals at the Wilson Ranch property have been classified by the State Mining and Geology Board as MRZ-2a, and thus LAFCo will need to evaluate the potential for any traffic restrictions imposed by the City on the production of these classified minerals.*

Regardless of the mineral classification on land south of the SPA, the City has the right to impose truck route restrictions within its jurisdiction consistent with California Vehicle Code Section 21101(c). See also response to comment Tsakopoulos-3-4 and Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.

*The comment further states that "given that LAFCo likely will be opposed to annexation if traffic restrictions interfere with production of classified minerals," the reliance on such mitigation measures renders these measures speculative.*

The statement that "LAFCo likely will be opposed to annexation" is a statement of the commenter's opinion that is based on speculation rather than facts. (See State CEQA Guidelines CCR Section 15384[b] [argument, speculation, and unsubstantiated opinion are not substantial evidence of an environmental impact].)

Tsakopoulos-3-7

*The comment states that Tsakopoulos remains hopeful that all stakeholders can agree on the text of the TMP, and mechanisms for its implementation, that will be fair to all involved parties. The comment states that Tsakopoulos is concerned that the City will abandon the TMP process and/or refuse to contribute a fair share to the measures contemplated in the TMP.*

The City is committed to participation in the TMP, and it, too, remains hopeful that all stakeholders can agree on the text of the TMP, and mechanisms for its implementation, that will be fair to all involved parties. See also Master Response 7 – Quarry Truck Cumulative Impact and Mitigation Approach, in the FEIR/FEIS.

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Municipal Services Agency

Department of Transportation

Michael J. Penrose, Director

Steven Szalay, Interim County Executive

Robert B. Leonard, Agency  
Administrator

## County of Sacramento

May 18, 2011

City of Folsom  
Planning Commission  
50 Natoma Street  
Folsom, California 95630

**SUBJECT: PLANNING COMMISSION HEARING ITEM NO. 6-FOLSOM PLAN AREA  
SPECIFIC PLAN FOR MAY 18, 2011 MEETING.**

Dear Commissioners:

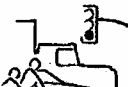
The Sacramento County Department of Transportation has reviewed the agenda packet for tonight's hearing. Table 1 shows the list of Sacramento County intersections that are impacted by the Folsom Plan Area Specific Plan (FPASP) along with feasible mitigation measures as listed in the FEIR.

**Table 1: List of Sacramento County Intersection Mitigation Measures**

Int. No.	Intersection	MM No.	Mitigation Measure
SC 2	Hazel Av & Folsom Bl	3A.15-1h	Hazel Av grade separation over Folsom Bl with "jug handle" connection to Folsom Bl.
SC 3	Grant Line Rd & White Rock Rd	3A.15-1i	Widen White Rock Rd to four lanes with intersection improvements.
CT 4	US50 EB off ramp & Folsom Bl	3A.15-1o	Auxiliary lane improvements on US 50 would reduce traffic at this intersection.
CT 12	Grant Line Rd & Jackson Rd (SR-16)	3A.15-1p	Install exclusive left turn lanes on Grant Line Road and modify traffic signal.
SC 3	Grant Line Rd & White Rock Rd	3A.15-4i	Grade separation.
CT 1	US50 WB off ramp & Hazel Av	3A.15-4p	Westbound approach reconfigure to an exclusive left, one shared left thru, and three rights.

1

*"Leading the Way to Greater Mobility"*



Design & Planning: 906 G Street, Suite 510, Sacramento, CA 95814 . Phone: 916-874-6291 . Fax: 916-874-7831  
Operations & Maintenance: 4100 Traffic Way, Sacramento, CA 95827 . Phone: 916-875-5123 . Fax: 916-875-5363  
www.sacdot.com

Table 2 shows the list of Sacramento County roadway segments that are impacted by the FPASP along with feasible mitigation measures as listed in the FEIR.

**Table 2: List of Sacramento County Roadway Segment Mitigation Measures**

RS No.	Roadway Segment	MM No.	Mitigation Measure
SC 10	Hazel Av between Madison Av & Curragh Downs Dr	3A.15-1j	Hazel Av widening project.
SC 5-7	Grant Line Rd between White Rock Rd & Kiefer Bl	3A.15-4j	Widen to six lanes.
SC 8	Grant Line Rd between Kiefer Bl & Jackson Rd	3A.15-4k	Widen to six lanes.
SC 22	White Rock Rd between Grant Line Rd & Prairie City Rd	3A.15-4m	Widen to six lanes.
SC 28	White Rock Rd between Empire Ranch Rd & Carson Crossing Rd	3A.15-4n	Widen to six lanes.

2

We have the following comments, revisions and recommendations to offer in regards to the mitigation measures as stated in the executive summary of the final EIR/EIS, Traffic and Transportation chapter 3A.15 of the final EIR/EIS, and Mitigation Monitoring and Reporting Plan (MMRP). The same language is repeated in these three references. We ask the commission to direct City staff to make these changes prior to the City Council hearing.

3

1. Please revise the "timing" section of the MMRP and FEIR/FEIS for the above listed mitigation measures, to read as, " A phasing analysis shall be performed **by the City of Folsom or the project proponent(s)** prior to approval of the first subdivision map to determine when the improvements should be implemented."
2. Please identify percentages for all of the proportionate fair shares for the above summarized mitigation measures in the "Mitigation Measure" section in the MMRP and FEIR/FEIS. We understand that fair shares may change in the future and prior to the implementation of the mitigation measures. We are open to updating the fair share calculations in the future and prior to implementation of the mitigation measures due the other unforeseen future development projects in the area. But, at this point, we would request these fair share percentages be documented so that both jurisdictions have a clear understanding of the development responsibility when it comes time to enforce these mitigation measures.
3. Please revise the "Enforcement" agency to be "City of Folsom" for all of the mitigation measures in the MMRP and FEIR/FEIS. The County of Sacramento will not have any control over the issuance of the building permits or approval of the final maps for this project.

4

5

City of Folsom  
May 18, 2011  
Page 3

Should you have any questions, please feel free to contact me at (916) 874-6291.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Michael Penrose', written over a horizontal line.

Michael Penrose  
Director  
Department of Transportation

MJP:ka

c: Dean Blank, DOT  
Matt Darrow, DOT  
Kamal Atwal, DOT

Sac Cnty-3-1 *The comment provides a table listing six Sacramento County intersections that would be affected by the project and a “summary” of the mitigation proposed for those intersections in the DEIR.*

The table provided by the commenter generally summarizes Mitigation Measures 3A.15-1h, 3A.15-1i, 3A.15-1o, 3A.15-1p, 3A.15-1, 3A.15-4i, and 3A.15-4p. The comment does not raise specific questions, significant environmental issues, or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

Sac Cnty-3-2 *The comment provides a table listing five Sacramento County roadway segments that would be affected by the project and a “summary” of the mitigation proposed for those segments in the DEIR.*

The table provided by the commenter generally summarizes Mitigation Measures 3A.15-1j, 3A.15-4j, 3A.15-4k, 3A.15-4m, 3A.15-4n. The comment does not raise specific questions, significant environmental issues, or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

Sac Cnty-3-3 *The comment requests that the “Timing” section of the Mitigation Monitoring and Reporting Program (MMRP) and the FEIR/FEIS be revised for the mitigation measures listed in comments Sac Cnty-3-1 and Sac Cnty-3-2 to indicate that a phasing analysis would be performed by the City or the project applicants prior to approval of the first subdivision map.*

Any required phasing analysis of project-related transportation improvements would be the responsibility of the governing agency or project proponent; at no time does the DEIR/DEIS or the FEIR/FEIS suggest that any external jurisdiction or entity would be tasked with this responsibility. The City does not believe that revisions are required.

Sac Cnty-3-4 *The comment asks that percentages be identified for all of the proportionate fair shares for the mitigation measures listed in comments Sac Cnty-3-1 and Sac Cnty-3-2.*

The City recognizes that Sacramento County policy is to calculate and report fair share percentages of transportation mitigation measures in their EIRs; however, the City, like many other public agencies, does not share this policy and this level of information is not required under CEQA or NEPA, particularly for a program-level of analysis (see DEIR/DEIS Chapter 1, “Introduction” pages 1-8 through 1-10 for a discussion of the type of environmental document that was prepared for this project). Fair share percentages are subject to change over time due to changes in traffic flow, construction costs, and other factors, and therefore the City considers the inclusion of such detail in the DEIR/DEIS to be unnecessary.

The City is currently in negotiation with Sacramento County to develop a transportation development fee methodology and initial calculation of fair share as it pertains to the SPA. Both agencies are committed to establishing an agreed-upon methodology before

the fair share contributions are due and payable, which typically occurs at the building permit stage.

Sac Cnty-3-5

*The comment requests that the "Enforcement Agency" section of the MMRP and the FEIR/FEIS be revised to state "City of Folsom" for all traffic mitigation measures, because Sacramento County would not have control over issuance of building permits or approval of final maps for the project.*

To clarify, the "Enforcement Agency" listed in the DEIR/DEIS is the agency responsible for the ultimate construction of the improvements required under each mitigation measure. Improvements that must occur outside the City's jurisdiction would be performed under the standards and oversight of the agency in which the improvement is being constructed. The City is tasked with the collection of transportation impact fees and the timely disbursement of those fees to the public agency that would oversee the use of those fees to construct improvements. The City does not believe that revisions to the DEIR/DEIS are required.

  
**LEGAL SERVICES OF NORTHERN CALIFORNIA**  
SACRAMENTO COUNTY OFFICE 515 - 12TH STREET SACRAMENTO, CALIFORNIA 95814  
VOICE: (916) 551-2150 FAX: (916) 551-2196  
E-MAIL: SACTO@LSNC.NET WEB: WWW.LSNC.NET

May 18, 2011

Sent by electronic mail to cfreemantle@folsom.ca.us

Commissioner Greg Eldridge, Chair  
Commissioner Ross Jackson, Vice Chair  
Commissioner Dave Benevento  
Commissioner Thomas Scott  
Commissioner Brian Martell  
Commissioner Lance Klug  
Planning Commission of the City of Folsom  
50 Natoma Street  
Folsom, CA 95630

Attn: City Clerk, Christa Freemantle

Re: Item 6, Folsom Planning Commission Meeting, May 18, 2011 - Folsom Plan Area Specific Plan, etc.

Dear Chairman Eldridge, Vice Chair Jackson and Commissioners:

On behalf of the Sacramento Housing Alliance, we submit these comments regarding the Draft Folsom Plan Area Specific Plan ("FPASP" or "Plan") and related documents.

The Draft Plan has many attributes that appear to offer current and would-be Folsom residents a range of housing options. The Plan also contains components, including specific zones designated high-density multi-family development, that have good potential to promote and facilitate the development of affordable housing. However, we have some concerns about the Plan and offer comments below that are intended to help better ensure that sufficient affordable housing is developed in the Plan Area. First, we address a significant issue regarding the City's ability to go forward with the Plan and annexation process.

Failure to Meet Condition of Annexation

As the Commission knows, in Local Area Formation Commission (LAFCo) Resolution No. 1196 adopted on June 6, 2001, LAFCo approved the City's Sphere of Influence (SOI) Amendment Application, but conditioned approval on the City meeting a number of requirements, including "in



its approved Housing Element that it will meet its regional share housing needs for all income levels for the second and third housing element revision.” See LAFCo Resolution No. 1196, Condition 1(b). The FPASP expressly incorporates Resolution No. 1196. See FPASP, p. 1 – 2. Since the City has not met its regional housing needs for low or very-low income households (1,839 units) the City has not met Condition 1(b) and should not move forward with annexation until it does so.

This problem is not a mere technicality, but a matter of substance. The City has acknowledged that it has not met the housing needs of its retail workforce within its current boundaries. The retail, entertainment and other commercial development contemplated in the Draft Plan will only increase that housing need. Thus, redoubling efforts to ensure that all segments of the workforce in the current city bounds as well as the proposed new bounds is in the City’s interest in terms of getting it out of the retail housing deficit hole, ensuring a good jobs-housing balance and ensuring compliance with SB 375, among other things.

1 cont.

Adequacy of affordable housing sites in Plan area

The Draft Plan states that 19 percent of the total units projected will be suitable for affordable housing, but does not lay out the methodology the City used to determine that this was an appropriate percentage for the Plan area. The Regional Housing Needs Assessment (RHNA) for the current planning period allocates over 50% of the need to the very low and low income segments--those most in need of housing they can afford. This strongly suggests that the 19 percent allocation is too low, particularly since: 1) there is an existing deficiency in serving the housing needs of the retail sector, 2) the Plan contemplates adding significant retail to the City, and 3) the City recently sunsetted the Inclusionary Housing Ordinance without replacing it with a housing program projected to be as productive.

2

We do not believe this problem can be adequately addressed through density bonuses. The Plan acknowledges that the number of units projected were calculated at average as opposed to maximum densities for each zoning category, e.g. for Multifamily High Density at 25 as opposed to 30, and that the total number of units is capped at 10,210. Thus, there is no room under the current Draft Plan to add units using density bonuses.

Further, we take issue with Section 5.6.1 of the Plan which purports to adequately address the Plan area’s affordable housing need in lieu of an Inclusionary Housing Ordinance because the Plan projects that 15 percent of the units developed will be affordable. The 15 percent generated by the Ordinance is a floor, not a ceiling. Moreover, as the City has often pointed out, the Ordinance was not intended to be the sole affordable housing program to meet the City’s affordable housing need.

3

As the City acknowledges, Folsom’s next RHNA allocation, including the Plan Area, will not be assigned until 2012. Plan at 5-4. Therefore, the City should err on the side of planning to accommodate a greater percentage of very low and low income units than 19%. If it fails to do so, the considerable population and retail job growth of the Plan Area may well require the City to accommodate the increased very low and low income RHNA needs in other Folsom neighborhoods.

4

The Plan should have stronger affordable housing incentives

The Plan reference to Redevelopment Agency set-aside funds as an “affordable housing incentive” is misleading. As the City acknowledges, the Plan Area is not within the boundaries of a redevelopment project area. Accordingly, set-aside funds would not be available to assist affordable housing development in the Plan Area absent Redevelopment Agency findings that such an expenditure would benefit the existing project areas that generated such tax increment. For the same reason, the City’s reference to its First-Time Homebuyer Assistance Program as an affordable housing incentive for this Plan Area is problematic as this program is funded with Redevelopment Agency set-aside funds and would be subject to the same “findings” requirements. Finally, current state budget proposals threaten the elimination of redevelopment agencies, along with funds that must be set-aside to support the development of affordable housing.

5

The City’s reliance on the Section 8 Voucher program as an affordable housing incentive is also problematic because SHRA has a limited number of Section 8 vouchers allocated on an annual basis, and a long waiting list of existing families in need of such assistance. Thus, there is no realistic guarantee that a measurable number of units will be made affordable through this program. Creating regulatory agreements for rental developments which prohibit discrimination against Section 8 voucher holders would be a more productive way to leverage scarce Section 8 Voucher resources to create affordable housing opportunities in the Plan Area.

6

The Plan’s residential units transfer policy is problematic

The Plan’s transfer policy (Section 4-7) raises concerns because it does not restrict the ability of single family or lower-density developments to encroach upon multi-family or higher density sites. The flexibility to transfer units between sites thereby decreases the potential for development of multi-family units. To ensure this does not occur, we suggest that transfers only be permitted from lower to higher density sites or that a similar adjustment to the policy is made.

7

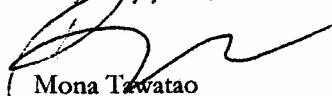
There are no zones designated for emergency or transitional housing

The Plan contemplates expanding Folsom by over 3,510 acres, well over one-fifth of Folsom’s current size, increasing Folsom’s population by an estimated 25,000 persons. Consistent with its Housing Element and the City’s acknowledgement of the ongoing housing crisis, the Plan should address the needs of all income categories, including its homeless population. The Plan should at least analyze the existing and potential need for emergency or transitional housing that might be particularly well-placed given the transit-oriented and walkable features of the Plan.

8

Thank you for considering our comments. Please contact me at 916-551-2184 if you have any questions.

Very truly yours,



Mona Tawatao  
Regional Counsel

LSNC-1

*The comment states that Legal Services of Northern California (LSNC) is submitting comments on behalf of the Sacramento Housing Alliance. The comment states that the City has not met LAFCo Resolution 1156's condition 1(b), which provides that the City shall obtain a determination of substantial compliance with the state housing law from the California Department of Housing and Community Development (HCD) prior to submission of an application for annexation.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The referenced Resolution 1196 condition provides that the City must have a certified Housing Element before submission of an annexation application to the Sacramento LAFCo. The City of Folsom has a Housing Element (2009), which was certified by HCD on or about on August 9, 2009, which includes evidence of conformance with the Regional Housing Needs Assessment (RHNA). Program 18m of the City's Housing Element (P.7 Policy Document, Adopted July 14, 2009) provides: "To accommodate the remaining RHNA of 235 low-income units, the City shall redesignate and rezone parcel APN 072-001-011 or another site(s) equal to approximately 9 acres as RHD/R4." On October 21, 2010 the City Council rezoned a 13.2-acre parcel located at 2800 Iron Point Road from Office/Industrial to RHD/R4, Resolution No. 8746, thus completing the RHNA requirement.

The Sacramento Area Council of Governments (SACOG) is currently formulating the next cycle of RHNA numbers, which are not yet available or approved for assignment to the cities and counties within SACOG.

The FPASP has been amended in Section 5.5 as follows: "In the year 2012, the Plan Area will be included in the next RHNA allocation for the City of Folsom, and the land uses currently proposed in the Plan Area could be rezoned from time to time, if necessary, in order to meet the City's RHNA obligations." The FPASP has been amended in Section 5.6 as follows: "Because the RHNA allocation number for the Plan Area is unknown at the time of adoption of the FPASP, the land uses currently proposed in the Plan Area could be rezoned from time to time, if necessary, in order to meet the City's RHNA obligations." The FPASP Section 5.6.1, Affordable Housing Strategies, has been amended to read: "In 2002, the City of Folsom passed an Inclusionary Housing Ordinance (FMC 17.104) requiring all development projects consisting of ten or more units to provide ten percent of the units as affordable to very low-income households and five percent of the units as affordable to low-income households through on-site or off-site construction, land dedication, conversion of market rate units, and construction of second units. As required by the City's Housing Element, the City reviewed the Inclusionary Housing Ordinance and concluded that it may act as a constraint to the production of moderate and market rate housing. On January 11, 2011 the City Council adopted Ordinance No. 1140 to sunset the inclusionary housing ordinance as to future projects; however the FPASP nonetheless presents an alternative strategy that fulfills the requirements of the Inclusionary Housing Ordinance by providing an adequate number of multi-family high density residential sites that will potentially result in the production of housing units equal to at least 15% of the total Plan Area residential count. Furthermore, project-specific development agreements will contain additional affordable housing

LSNC-1

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strategies to help the City meet its RHNA obligations and the Quantified Objectives in the City's Housing Element.”

A development agreement for the FPASP is scheduled to be considered by the City Council in June or July 2011. The proposed development agreement states: “Affordable Housing – The City retains all rights and authority and does not vest any rights with respect to Affordable Housing.” (Development Agreement at Section 2.2[A]). At the time of adoption of this Agreement, the City's RHNA numbers for the SPA will not have been provided. As such, the City retains all rights to modify the land plan, rezone properties, adopt ordinances, and adopt programs in its housing element to further the goals of affordable housing in any future Housing Element and to assure there is adequately zoned land to meet the RHNA allocation for the SPA.

LSNC-2

*The comment states that the FPASP does not provide adequate affordable housing sites, and does not lay out the methodology the City used to determine that this was an appropriate percentage for the SPA. The commenter further states that the RHNA for the current planning period allocates over 50% of the need to the very low and low income segments, suggesting that the 19% allocation in the FPASP is too low, particularly since: 1) there is an existing deficiency in serving the housing needs of the retail sector, 2) the FPASP contemplates adding substantial retail to the City, and 3) the City recently sunsetted the Inclusionary Housing Ordinance without replacing it with a housing program projected to be as productive. The comment further states that LSNC does not feel that this problem can be adequately addressed through a density bonus.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. State Housing Law requires that the jurisdiction “...identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels” (Government Code Section 65583.2[a]). The requirement as used in the RHNA process is interpreted that the zoned supply of very low income and low income residential land by SACOG and the state HCD must be vacant lands that are zoned at a minimum density of 20 dwelling units to the acre. The 2009 City of Folsom Housing Element was certified by the state HCD as compliant with the state housing law. The current RHNA process will not be completed with housing allocations assigned to jurisdictions until 2012 at the earliest. The commenter's projection of RHNA numbers for the FPASP are speculative and unsupported. See also response to comment LSNC-1 for additional statements in the FPASP and DA for the project requiring that zoning be changed to meet the needs of all future RHNA requirements.

LSNC-3

*The comment expresses concerns with Section 5.6.1 of the FPASP which addresses the project's affordable housing in lieu of an Inclusionary Housing Ordinance.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. FPASP Section 5.6.1 has been amended as noted in response to comment LSNC-1. It is important to note that this language requires all developers to provide an affordable housing strategy(s) to help the City meet its RHNA obligations and the “Quantified Objectives” in the City's Housing Element. The City will require development agreements with a commitment from all developers to meet the City's RHNA obligations and the Quantified Objectives in the City's Housing Element. State housing law requires only that the

jurisdiction "...identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels." (Government Code Section 65583.2[a]).

LSNC-4

*The comment states that because the City's next RHNA allocation, including the FPASP, will not be assigned until 2012, the City should accommodate a percentage of very low and low income units that is greater than 19%.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment represents a statement of the commenter's opinion and will be forwarded to the City's decisionmakers for consideration.

LSNC-5

*The comment states that the FPASP should have stronger affordable housing incentives, as the SPA is not within a redevelopment project area, which would limit funding options, and further because the current state budget proposals threaten the elimination of redevelopment agencies, along with funds that must be set aside to support the development of affordable housing.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. See response to comment LSNC-1. The FPASP has been amended to require project specific development agreements with each new development in the FPASP including provisions for affordable housing requirements.

LSNC-6

*The comment states that the City's reliance on the Section 8 Voucher program as an affordable housing incentive is also problematic because the Sacramento Housing and Redevelopment Agency (SHRA) has a limited number of Section 8 vouchers allocated on an annual basis, and a long waiting list of existing families in need of such assistance.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The City of Folsom assumes that SHRA will grant the City equal access to available Section 8 vouchers with all other jurisdictions. The City currently has Section 8 vouchers in place in its jurisdiction.

LSNC – 7

*The comment states that the FPASP's residential units transfer policy is problematic, raising concerns because it does not restrict the ability of single family or lower-density developments to encroach upon multi-family or higher density sites, thereby decreasing the potential for development of multi-family units. The comment suggests that transfers only be permitted from lower to higher density sites or that a similar adjustment to the policy is made.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The commenter should note that all residential zoning districts have density ranges with minimum densities. Therefore, projects within the multi-family high density zoning district must develop at a minimum residential density of 20 dwelling units to the acre.

This ensures that any density transfers cannot reduce the development density below the 20 du/acre minimum, which is the minimum density requirement for affordable housing.

LSNC-8

*The comment states that there are no zones designated for emergency or transitional housing, and the FPASP should address the needs of all income categories, including its homeless population.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. On May 24, 2011 the City Council introduced Ordinance No. 1146 – An Ordinance of the City of Folsom Amending Sections 17.108.131 and 17.108.040 of the Folsom Municipal Code Regarding Emergency Shelters. This ordinance established use and development regulations for emergency shelters (i.e., homeless shelters). Consistent with Government Code Section 64483 the City of Folsom identifies emergency shelters as permitted by right in the R-3 and R-4 residential zoning district. At the same City Council meeting, the City Council introduced Ordinance No. 1144 – An Ordinance of the City of Folsom Adding Definitions of Group Home, Single Room Occupancy Units, Supportive Housing and Transitional Housing. This ordinance established definitions and complies with state laws regarding these types of housing and establishes these uses by right in certain residential and commercial zoning districts. These definitions and uses will be incorporated into the FPASP to allow these uses by right in comparable zoning districts, consistent with Ordinance No. 1146 and Ordinance No. 1144.