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COMMUNITY DEVELOPMENT
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Final Environmental Impact Report

CITY OF SELMA "ROCKWELL POND COMMERCIAL PROJECT" SCH No. 2007061098

Prepared for:

The City of Selma Community Development Department

Prepared by:

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Response to Comments– Rockwell Pond DEIR

During the public review period Draft EIR (DEIR), response letters were received from the following persons and agencies.

- A. County of Fresno Department of Public Works and Planning
- B. County of Fresno Department of Public Health, Environmental Health Division
- C. Fresno Irrigation District
- D. Bingham, McCutchen, LLP
- E. Jeannette Jurkovich
- F. California Department of Transportation
- G. California Public Utilities Commission
- H. Pacific Gas and Electric Company
- I. San Joaquin Valley Air Pollution Control District
- J. Consolidated Mosquito Abatement District
- K. California Department of Conservation
- L. Fresno Local Agency Formation Commission
- M. McCormick Barstow, Sheppard, Wayte, & Curruth LLP
- N. Consolidated Irrigation District
- O. Law Offices of William D. Ross

The following section provides responses to comments, including additional mitigation as required. Where appropriate, the letters have been annotated to correspond to the numbered responses. The comments letters are attached as Exhibit A.

A. County of Fresno Department of Public Works and Planning

The Department of Public Works and Planning has no comments on the Rockwell Pond Commercial Project DEIR. No additional response is required.

B. County of Fresno Department of Public Health, Environmental Health Division

The Department of Public Health, Environmental Health Division, has no comments on the Rockwell Pond Commercial Project DEIR. No additional response is required.

C. Fresno Irrigation District

The Rockwell Pond Commercial Project is not located within the boundaries of the Fresno Irrigation District. No additional response is required.

D. Bingham, McCutchen, LLP

Marie A. Cooper was the attorney of record for the proposed Wal-Mart project southeast of the Project site. As she no longer works on the project, she transferred the Rockwell Pond Commercial Project DEIR materials to Art Coon of Miller, Starr & Regalia. That firm also had no comments of the DEIR.

E. Jeannette Jurkovich

Ms. Jurkovich is a member of the Selma Historical Commission and expressed concern about the potential historical significance of the pre-1958 homes located on the project site. The archaeological report prepared for the project identified five such houses, but one was located north of Rockwell Pond adjacent to DeWolf Avenue. All lands north of Rockwell Pond were subsequently removed from the Project. As a result, four pre-1958 homes adjacent to Floral Avenue are included in the Project.

The firm of Johnson Architecture was retained to analyze these homes for historical significance. The research was undertaken by Lauren MacDonald, Historical Preservationist. Their preliminary analysis indicates that none of the homes on the Project site are historically significant. The final report will be presented to the City Council prior to certification of the Final EIR.

F. California Department of Transportation

The October 28, 2009 letter presents substantial discussion related to the congestion that is expected to occur at the intersections within the Floral Avenue/ Highland Avenue / SR 99 interchange. These discussions do not contradict the conclusions of the Traffic Impact Study (TIS) dated January 2, 2009 by Peters Engineering Group. The TIS concluded that, "In general, the proposed project is expected to contribute to the need to widen Floral Avenue to six lanes at many locations and to provide lane additions at the study intersections. At some locations Floral Avenue will require widening to four lanes in a single direction. If the required mitigations are not feasible, the impact would be considered significant and unavoidable." It appears that the required mitigations within the Floral Avenue/ Highland Avenue / SR 99 interchange are not feasible to be constructed solely by the Rockwell Pond project, which would result in the congested traffic conditions described in the both the Caltrans letter and the TIS.

The October 28, 2009 letter presents a proportional share discussion related to the intersection of SR 43 and Rose Avenue. Peters Engineering Group concurs with the project trip generation estimate of 195 trips at the intersection.

In the fourth paragraph on the first page of the July 14, 2009 letter, Caltrans compares the 2015 and 2030 volumes presented in the TIS and specifically references Figures 21 through 24. Peters Engineering Group has confirmed that the 2030 volumes are appropriate projections. The 2015 volumes include the pending projects referenced in the report. Therefore, the traffic volumes projected in both scenarios are based on standard traffic engineering practice. The projected 2015 volumes likely represent an aggressive rate of growth between 2009 and 2015 based on the inclusion of all the pending projects referenced in the report. However, standard traffic engineering practice would not suggest that either 1) the 2015 volumes should be reduced, or 2) the 2030 volumes should be increased, despite the fact that they may be similar.

In the fifth paragraph on the first page of the July 14, 2009 letter, Caltrans states that the intersections appear to have been analyzed as isolated intersections. This comment is incorrect. The intersections were analyzed in a Synchro 6 network that allows consideration of adjacent intersections. The queue delay reported on the Synchro analysis sheets in the TIS, most prominently during the p.m. peak hour with the Project, is evidence of the significant amount of interaction between intersections and additional delay caused by congestion. As a part of this response, Peters Engineering Group performed additional in-house verification in Synchro 6 by analyzing the intersection of Highland and Floral without other intersections in the network. The result was that the queue delay was decreased to zero with substantial decrease in the average delay per vehicle. Therefore, Peters Engineering Group is confident that the effects of adjacent intersections are considered in the analyses.

In the fifth paragraph on the first page of the July 14, 2009 letter, Caltrans states that the analysis of an intersection as "Actuated-Uncoordinated" is misleading and would result in a more favorable LOS outcome than analyzing as a coordinated system. This comment is incorrect and the opposite is generally true. Coordination is typically implemented to improve the LOS at intersections along the coordinated corridor. However, the positive or negative effects of coordination are very specific to the conditions at each intersection and cannot be generalized. In the case of the analyses presented in the TIS, it was assumed that the intersections within the Floral / SR 99 interchange are not currently coordinated, and this is a conservative assumption not intended to mislead or yield favorable results. Based on additional analyses Peters Engineering Group performed to assist in this response, an assumption that the corridor is already properly coordinated in the existing condition and subsequent scenarios yields less delay per vehicle and incorrectly concludes a more favorable LOS condition than was reported in the TIS. Therefore, Peters Engineering Group believes the analyses presented in the TIS remain applicable. The implementation of coordination, including means to interconnect the intersections, should be considered along with any future improvements or mitigations to be constructed at the interchange.

The second paragraph on Page 2 of the July 14, 2009 letter suggests that alternate analyses should consider modifications to the local road system. It is the opinion of Peters Engineering Group that the desired relief of traffic congestion would likely require a new grade separation (bridge) to allow another local road connection across the freeway, which is similarly infeasible for the Rockwell Pond project to construct. The DEIR for the City of Selma General Plan Update has been prepared and includes analysis of a new interchange at Dinuba Avenue and SR 99 (thereby providing another location to cross the freeway) and realignment of SR 43 to the west of the Rockwell Pond project to terminate near SR 99 at Dinuba Avenue rather than at Floral Avenue. Peters Engineering Group performed the traffic analysis utilized in the DEIR and the analysis accommodated land uses on the Rockwell Pond site consistent with the Rockwell Pond project. The analysis indicates that substandard levels of service will exist by the year 2035 at the Floral / SR 99 interchange even with the Dinuba Avenue interchange and SR 43 realignment. Therefore, the City is addressing this comment through analysis of an updated General Plan rather than in this project-specific TIS.

No specific responses are required for the August 6, 2007 letter, except that queues were considered in the TIS analysis of the Floral / SR 99 interchange.

G. California Public Utilities Commission

The CPUC expresses concern about the Floral at-grade crossing with the Union Pacific Railroad. This at-grade crossing is approximately $\frac{3}{4}$ to 1 mile from the Project site and is a four lane at-grade crossing with full crossing arm protection. The TIS for the Project did not indicate that additional widening is required for the portion of Floral east of Witson Street and that improvements are in place to accommodate future traffic.

The nearest residential areas are an additional $\frac{1}{2}$ mile east of the crossing. Pedestrians will generally walk within a 10-minute radius for commercial services. The nearest residential areas to the Project site which might use Floral Avenue at the at-grade crossing are approximately 1.5 miles away, or a 20-30 minute walk. Because the Project will not generate traffic sufficient to require the expansion of Floral Avenue at the at-grade crossing, and because pedestrian activity at this location generated by the Project will be minimal, no significant impacts to the crossing are anticipated.

H. Pacific Gas and Electric Company

The PG&E comment lists specific recommendations, including early consultation with PG&E to avoid conflicts with clearance requirements, utility access, and easement encroachments. It is acknowledged that the developer is responsible for the costs associated with relocating PG&E facilities and to coordinate with the utility in site development.

These are standard development practices and do not require additional mitigation measures. Any required on-site and off-site additions and improvements to gas and electric facilities will be coordinated with PG&E.

It is acknowledged that information on electric and magnetic fields (EMF) should be made available to the general public. EMFs exist where there is electricity – most commonly in power lines. There is no scientific consensus on the actual health effects of EMF exposure. Because the project contains no overhead power lines, is non-residential, and all utilities will be placed underground, the exposure to EMFs is not considered significant.

I. San Joaquin Valley Air Pollution Control District

The response from the SJVAPCD was submitted after the 45-day public comment period but has relevance to the Project. The District states that the Project will not have an impact on air quality but will contribute cumulatively to overall decline in air quality due to increased traffic and operational characteristics. This finding is consistent with the DEIR.

The District recommends that future uses be subject to a health risk assessment when approving projects that could expose sensitive receptors to toxic air contaminants (TACs). While this practice will be consistent with City requirements, the potential for TACs at the project site is unlikely. As a commercial project, no manufacturing or processing will take place on the site and no toxic air contaminants are anticipated. In addition, neither the site nor the surrounding area contains existing or planned sensitive uses.

The DEIR contains mitigation measures for control of construction emissions. The mitigation monitoring and reporting program requires that all mitigation measures be included as Project conditions of approval for all site plans, use permits, and other subsequent approvals. This is consistent with the recommendations of the District.

District Rule 9510 requires that major projects exceeding the project size thresholds established by the District submit an Air Impact Assessment and to pay applicable off-site mitigation fees before issuance of the first building permit. This mitigation is included in the DEIR, including an estimate of the required fees. In accordance with the mitigation monitoring and reporting program, this measure will be made a condition of Project approval.

The DEIR includes mitigation requiring the use of District rules Regulation VIII, Rule 4102, Rule 4601, and Rule 4641, as well as additional mitigation to control fugitive dust consistent with District recommendations.

It is acknowledged that land use development such as mixed use and walkable communities can reduce VMT. The Selma General Plan is being updated and the proposed Project is consistent with land uses on the proposed land use plan. While the Project is not mixed use, it has several components to reduce VMT. These factors include development directly adjacent to the existing City, development at a location central to the City and area population, and a pedestrian oriented site plan containing unified parking areas, landscaped plazas, and walkways connecting uses.

The update of the General Plan contains air quality policies consistent with AB 170. The General Plan is expected to be adopted after action on the proposed Project and will bring the City into compliance with provisions of the law.

J. Consolidated Mosquito Abatement District

As stated in the DEIR, all storm water will be retained on-site in a storm drainage basin combined with other on-site retention features such as swales and landscape features. All such drainage features will be constructed in accordance with City of Selma standards, including storage capacity, minimum slopes to discourage vegetation growth, and nuisance water areas. It is not intended that each phase of the project have a separate drainage basin but that permanent facilities be installed with the first phase.

Without adequate design and maintenance provisions, the potential exists for the creation of shallow water conditions and emergent weed growth that enhances mosquito breeding habitat. This condition increases the public's exposure to mosquitoes and mosquito-borne disease such as West Nile virus.

The City concurs with the recommendations of the District and the following mitigation measures are added to Section 10.4 of the DEIR:

- 10.7 Basins should be constructed an/or managed so that water depths are maintained to a minimum of four feet in order to preclude invasive emergent vegetation such as cattails.
- 10.8 If water levels are subject to fluctuation during the summer mosquito breeding season, basins should be constructed with a low-flow/sump area. To prevent the growth of vegetation, the sump area should be excavated to a minimum depth of four feet below the pond floor. The basin floor should also be graded or sloped so as the standing water recedes, it will drain into the sump area.
- 10.9 Access must be provided. A free and unencumbered access roadway around the entire basin perimeter for pond maintenance and mosquito abatement activities is essential.

- 10.10 Basin edges should be well maintained free of excess vegetation that promotes mosquito breeding and hinders District control efforts.

With implementation of the above measures, the potential for creation of mosquito breeding habitat is reduced to a less than significant level.

K. California Department of Conservation

The Department of Conservation (DOC) concurs with the DEIR's findings concerning the significant and unavoidable impacts of agricultural land conversion.

However, changes to mitigation measure 4.1 a) and b) as recommended by the DOC are not supported by the City. The measures as written are consistent with the regional approach taken by the Selma General Plan update and are considered adequate to mitigate the loss of farmland on the Project site.

Specifically, in measure a), a 2:1 ratio has not been used locally and a 1:1 ratio has been used by Fresno County in recent land use decisions. This ratio sets aside an equal amount of agricultural land to that converted on the Project site, and due to the somewhat lower demand for easement property in and around the City, is considered much more feasible to implement in the region.

In regard to measure b), this alternative as written is important as it recognizes the City of Selma's intent to establish a fee program. Individual implementation on a project-by-project basis is not as effective as an overall program established by the City and applied to all development. Again, implementation within the region is considered superior to mitigation outside the region as suggested by the DOC.

The City concurs with the recommendations of the DOC for measure c), but again prefers local programs. As a result, the mitigation measure is therefore changed as follows:

- c) Contribution of required funds to a non-profit agricultural land trust whose primary purpose is the preservation of agricultural land, either within the County or statewide. Emphasis shall be placed on preserving agricultural land within the region.

It is acknowledged that the site is currently zoned for agriculture by Fresno County. The DEIR discusses the overall impact of the development of the site to a commercial center and contains mitigation measures to reduce or eliminate impacts, including the recommended mitigation to the loss of agricultural land in Section 4.1. The conflict with existing zoning of the Project site is removed if the City approves the rezoning and site plan for the site, annexation occurs, and the site is developed.

As a result, the conflict with existing zoning is considered less than significant and adequate mitigation to the loss of agricultural land is provided elsewhere in the DEIR.

L. Fresno Local Agency Formation Commission

1. It is acknowledged that subsequent annexation to the Selma-Kingsburg-Fowler County Sanitation District and detachment from the Kings River Conservation District, Consolidated Irrigation District, and Fresno County Fire Protection District will be required.
2. The criteria defined by the Local Government Reorganization Act of 2000 would identify the site as "prime agricultural land" consistent with findings in the DEIR. Only one of the findings need be made to qualify as prime agricultural land. The specific criteria are discussed below:
 - a) The site is irrigated and more than 50% of the site is composed of Hanford sandy loams, identified as a Class I soil by the NRCS.
 - b) Hanford sandy loam has a Storie Index Rating of 95 and is considered prime.
 - c) The site does not support livestock and thus does not meet this criteria.
 - d), e) The site is planted to vineyard and exceeds the identified commercial return of \$400 per acre.

As a result of these findings, the Project site would be considered "prime agricultural land" under the Local Government Reorganization Act of 2000.

3. The Consolidated Irrigation District has been provided an opportunity to comment on the DEIR and their comments are addressed in Response N.
4. The City's Master Services Plan will be updated with adoption of the Selma General Plan Update.

It is acknowledged by the City that, prior to submittal of the annexation application, the City must approve the general plan amendment, rezoning, site plan, annexation initiation, and certify the Final EIR for the Project in accordance with LAFCO requirements.

M. McCormick Barstow, Sheppard, Wayte, & Curruth LLP

1. The comment recommends that the DEIR include an inventory of the current proposed changes Agricultural Preservation policies in the draft General Plan Update (the "Draft General Plan"), and an evaluation which confirms that the Project is consistent with each of those policies. That evaluation is detailed below. It is emphasized that the Draft General Plan remains a pending project and that the policies evaluated below have not been adopted and may be subject to revision or deletion as part of the process for general plan review and adoption.

Land Use Element

Policy 1.1

The following agricultural land use category identifies land throughout the Planning Area that is intended primarily for agricultural uses. Agriculture (AG) 0 to 0.05 Units Per Gross Acre. This designation provides for agriculture and agriculturally—related uses with a 20-acre minimum lot size, and is generally applied to lands outside of urbanized areas or areas planned for future urbanization. Although lands designated Agriculture are not always under the direct control of the City of Selma, the agricultural designation of these lands is intended to express the City's preference that these areas remain in agricultural use and production.

In order to preserve them as a natural resource and provide a buffer between existing and future development in the City and neighboring cities, prime agricultural lands should not be designated for urban development to the extent feasible.

The Agriculture designation is applied to properties that the City prefers remain in agricultural use and production. The Project site is not designated for Agriculture, but is designated for commercial uses. It is therefore the intent of the General Plan Update that the site not be used for agriculture in the long-term. As a result, the Project is consistent with this proposed policy.

Policy 1.2

In order to preserve them as a natural resource and provide a buffer between existing and future development in the City and neighborhood cities, prime agricultural lands should not be designated for urban development to the extent feasible.

The Project site is prime farm land, but proposed as commercial by the General Plan Update. The policy suggests that prime farmland is to serve as a buffer between existing and future development. As the Project site is adjacent to the existing city limits on the western edge of the City and not located strategically in relation to the adjacent cities of Fowler, Kingsburg, and Parlier, it would not serve as a buffer.

By virtue of its designation as commercial property, the City considers future use as a buffer between communities as infeasible.

Policy 1.3

The premature conversion of productive agricultural lands to urban uses is discouraged. Steps to curb conversion of these lands include the use of Williamson Act contracts, Farmland Security Zone contracts, agricultural zoning, purchase/transfer of development rights and "right to farm" covenants.

The Project with implementation of mitigation measures in the DEIR takes positive steps to reduce the premature conversion of agricultural lands. Land to the north of Rockwell Pond is in the Williamson Act and there are no proposals to remove the property from the existing contracts. This land will remain agriculturally zoned in Fresno County pending specific development proposals. Mitigation measures in the DEIR require buffers between the project and adjacent agriculture as well as a right to farm notice.

Policy 1.7

Require a "right to farm" covenant to be recorded for all development adjacent to productive agricultural lands, in order to provide notice to future owners and protect the farming activities.

Mitigation Measure 4.3 addresses this requirement. The Project is therefore consistent with Policy 1.7.

Policy 1.8

New development in the community shall be sequential, and contiguous to existing development, to ensure the orderly extension of municipal services and preservation of a free flowing circulation system.

The Project site is adjacent to existing development within the city limits on the east and southeast. Requirements for improvements to the street and highway system will be required to ensure a free flowing circulation system.

Policy 1.9

While the City prefers contiguous urban development, this may not always be feasible or possible given short-term ownership and development constraints. However, leapfrog development greater than 1/2 mile from existing urban uses shall be discouraged. Such development shall be required to submit an analysis of the fiscal and service impacts the development would have upon the City.

As stated above, the Project site is adjacent to existing development within the city limits and is not subject to the 1/2 mile "leapfrog" development standard.

Policy 1.11

Development of peninsulas of urban development into agricultural lands shall be discouraged.

The proposed Project extends west along Floral Avenue to DeWolf and land uses south of Floral and north of the Project site will remain in agricultural use for the foreseeable future. A preliminary review by Fresno County and LAFCO staff during a pre-application meeting indicates that this would not be considered a peninsula for purposes of annexation, although the final determination will be made by LAFCO when the annexation application is submitted. The Project is therefore consistent with Policy 1.11.

Policy 1.95

The City shall maintain a 40,000 population and 70,000 population Urban Development Boundary (UDB) that limits development to within those boundaries until the City's population exceeds the corresponding UDB population. The City shall not develop or annex areas designated as "Reserve" within the Planning Area until additional land is needed.

The Project site is not designated "Reserve" and is therefore not restricted for annexation and development. The City has determined that site development is appropriate for the target population of 40,000 to 70,000 within the Urban Development Boundary. The Project is therefore consistent with Policy 1.95.

Policy 1.100

The City shall discourage leapfrog development (defined as urban development more than 1/2 mile from existing urban development) and development of peninsulas extending into agricultural lands to avoid adverse effects on agricultural lands, and to avoid adverse effects on agricultural operations that contribute to premature conversion.

The Project is adjacent to existing urban development along a substantial component of its eastern border and is thereby not a peninsula, nor leapfrog development. The Project is therefore consistent with Policy 1.100.

Policy 1.103

The City shall work with neighboring jurisdictions to prevent development on lands designated Reserve that would create potential inconsistencies with their future annexation into the City of Selma. When the development of lands designated Reserve becomes necessary for further growth of the City, the City will pursue their annexation and place them under a land use designation and zoning district appropriate to their intended use.

The Project is not designated as "Reserve" in the Draft General Plan, and is within the current sphere of influence of the City. The Project is therefore consistent with Policy 1.103.

Policy 1.104

The City shall not approve a general plan amendment, pre zoning or any development entitlement application for reserve areas for a period of at least five years from the adoption of this general plan update.

The Project is consistent with the Draft General Plan land use designation and is not within a reserve area. Therefore, once the Draft General Plan is adopted, the Project development would not require a general plan amendment or rezoning, nor require any development entitlement application for reserve areas. The Project is therefore consistent with Policy 1.104.

Policy 1.105

The City shall not approve a general plan amendment, pre zoning or any development entitlement application for reserve areas until a minimum of 80 percent of all non-reserve property with the same general designation within the general plan boundaries have been developed or have approved development entitlements.

The Project is consistent with the Draft General Plan land use designation and is not within any reserve area. Therefore, once the Draft General Plan is adopted, the Project's development would not require any general plan amendment or pre zoning, nor require any development entitlement application for reserve areas. The Project is therefore consistent with Policy 1.105.

Open Space, Conservation and Recreation Element

Policy 5.8

Prime and uniquely productive agricultural land should be conserved through orderly expansion of the City.

The Project is consistent with the Draft General Plan land use designation. The Project is contiguous to the existing City boundaries and contiguous with existing municipal services. It is therefore consistent with Policy 5.8.

Policy 5.9

To protect human health and safety from potential impacts due to agricultural spraying, dust, and traffic congestion, the City will encourage lower density development adjacent to land planned for long-term agricultural uses.

The Project does not propose residential uses on the site, which thereby avoids the potential conflicts that high density development would create with long-term agricultural uses. Further, based on the Draft General Plan land uses, the Project is not adjacent to lands that are planned, in the long term, for agricultural uses. It is therefore consistent with Policy 5.9.

Policy 5.10.

Agricultural lands which currently produce, or have the potential to produce, specialty crops for which the area is uniquely suited, should be protected from encroachment by urban uses.

The Project is not adjacent to lands that are planned, in the long term, for agricultural uses. It therefore is not creating an encroachment upon lands that have been identified as needing protection from urban uses. While the site is planted to vineyard, this crop is common to the area and the site is not uniquely suited to any known specialty crop. The Project is therefore consistent with Policy 5.10.

Policy 5.11.

Maintain a 20-acre minimum parcel size for agriculturally designated parcels to encourage viable agricultural operation and to prevent parcelization into rural residential or ranchette developments.

The Project is consistent with the Draft General Plan land use designation, and therefore not designated for agricultural uses. The Project therefore is consistent with Policy 5.11.

Policy 5.12.

Work with regional partners/organizations to develop an agricultural land conservancy program. Encourage the application of new agricultural land preservation and conservancy programs outside of the City's SOI.

The Project is within the City's current SOI and does not create any impediment to developing regional conservancy programs. The Project is therefore consistent with Policy 5.12.

It is concluded that the Project, including the mitigation measures in the DEIR, is consistent with the agricultural policies contained within the Selma General Plan Update.

2. The commenter recommends that Mitigation Measures 4.1 in the EIR should be deleted on the basis that identified measures do not avoid or substantially lessen significant environmental impacts of the Project on agricultural resources, and that no current policy of the City of Selma requires such programs.

It is acknowledge that, as detailed in the analysis in Friends of the Kangaroo Rat v. California Department of Corrections, the creation of an agricultural easement did not constitute "mitigation" under the CEQA Guidelines section 15370 because it would not create new farmland. Rather, at best, it would prevent the future conversion of farmland to nonagricultural use. In that regard, the Mitigation Measures in 4.1 do not achieve mitigation respecting the loss of the prime farmland that the Project will involve. This conclusion is consistent with the EIR's determination that even with the incorporation of the measures identified in Mitigation Measure 4.1, the impact remains significant and unavoidable. This concept is also reflected in the DEIR for the Draft General Plan, wherein it notes (at Page 3-21) that conservation easements or agricultural impact fees do not completely mitigation agricultural impacts because they do not create additional offsetting agricultural lands, but do help diminish the pressure on the loss of other agricultural lands.

Regarding the proposal to delete these mitigation measures from the EIR, it is acknowledged that the policies recommended in Mitigation Measure 4.1 are not currently adopted by the City of Selma. However, the commenter is referred to the DEIR for the Draft General Plan (Mitigation Measure 3.2.3.1). That Draft EIR does incorporate, as mitigation measures, the items detailed in Mitigation Measure 4.1. Therefore, inclusion of these mitigation measures, while they do not lessen or avoid the impact of the loss of prime farm land, are nevertheless important to include in the DEIR to ensure that the Project will be consistent with the mitigation measures that may be adopted as part of the EIR for the Draft General Plan. In this manner, these measures help ensure that there is not inconsistency between the Draft General Plan's mitigation measures for this resource, and the conditions under which this Project will develop.

However, it is also important to note that the mitigation measures identified in Mitigation Measure 4.1 will be applied, monitored and enforced consistent with the mechanisms developed to implement these mitigation measures under the terms of the Draft General Plan EIR (Measure 3.2.3.1 of the Draft General Plan's EIR). If future activities in development of the Project do not, under those monitoring and enforcement standards, require application of an element of Mitigation Measure 4.1, then such mitigation shall not be applied. In this fashion, the Project will be developed in a manner which ensures, to the best extent possible, that the mitigation measures identified in the Draft General Plan's EIR are applied to the Project's future development activities.

3. The commenter recommends certain additional information be incorporated into the Air Quality's Regulatory Framework Section. The identified language is hereby incorporated into that section.

4. The Commenter requests that the National 8 hour Ozone standard be revised from .08 to .075 ppm, and that the PM_{2.5} standard be corrected by referencing the current standard as 35mg/m³ rather than 65 mg/m³. The identified corrections are hereby incorporated into that section.
5. The commenter recommends certain additional information be detailed about OPR's Guidance regarding methods for evaluation climate change in CEQA Documents, and information regarding certain amendments to the CEQA Guidelines that OPR published in June, 2008. The additional information identified by the Commenter is hereby incorporated into subsection 5.3 of the EIR.

It should also be noted, however, that subsequent to the date of the commenter's letter, the Resources Agency has taken further actions in undertaking the adoption of the CEQA Guidelines respecting climate change. Those actions are detailed in Response 5 to the Comments of the Consolidated Irrigation District. Please refer to that response for further details about the status of these matters.

6. The commenter suggests that, to assure compliance with OPR Guidance, that the DEIR indicate whether any present Greenhouse Gas Reduction Plans applicable to the Project are currently in place. As detailed more fully in Response 5 to the Consolidated Irrigation District, the Project is in compliance with all identified regulatory policies respecting green house gas emissions.

The commenter also recommends the DEIR indicate whether a Greenhouse Gas Reduction Plan is proposed for adoption as part of the Draft General Plan Update. Reference is made to Section 3.17 of the DEIR for the Draft General Plan that details a number of proposed policies that will help reduce greenhouse gas emissions, as well as additional mitigation measures that may be adopted to help further address such circumstances. However, no Greenhouse Gas Reduction Plan is currently proposed for inclusion in the Draft General Plan or pursuant to the mitigation measures recommended by the DEIR supporting its adoption.

7. The Commenter recommends an evaluation of whether the site plan violates the safety standards that apply under the Fresno County Airports Land Use Policy Plan criteria for siting of structures located near airports. While that final evaluation has not been conducted, it is recommended that the Mitigation Measure 9.1 be modified to make more clear the intention that such a policy not be violated.

Therefore, Mitigation Measure 9.1 is proposed to be revised as follows:

Those portions of the Project within the inner approach zone of the Selma Aerodrome shall incorporate a site plan that complies with the Fresno County Airports Land Use Policy Plan criteria for siting of structures located within the inner approach zone.

8. The commenter suggests that certain language of the EIR in Subsection 10.2 improperly suggests that there is a need to obtain a recharge agreement between the City and Consolidated Irrigation District in order to avoid significant impacts to groundwater. The commenter has recommended language which clarifies that a project specific mitigation strategy that achieves the goals of developing additional recharge capacities, consistent with the policies and projects detailed in the draft cooperative agreement, will be effective in avoiding significant impacts to groundwater to the same extent as if such a cooperative agreement were in place.

The commenter is correct. The goals of the CID agreement, and the mitigation benefits it seeks to obtain, are accomplished at a project level by mandating mitigations that provide direct funding for beneficial projects that the draft cooperative agreement would otherwise seek to fund. Such a mitigation strategy is effectively accomplished through any of the three options detailed as Mitigation Measures 10.1 (a), (b) or (c).

9. The commenter suggests language in the EIR to reflect that the City has the right, under applicable State Planning Law, to override the recommendations of the ALUC, and a discussion of potential significant impacts that may result from that circumstance.

The relevant Standard of Significance adopted by the EIR regarding conflicts with applicable land use policies provides as follows:

Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

In this context, it is important to note that the California Public Utilities Code Section 21676(b) requires that any amendment to a general plan that affects territories within the planning boundaries of an airport land use commission (ALUC), must be referred to that airport land use commission before action to adopt the amendment is taken. The statute further provides that the local government agency may overrule the determination of the ALUC by a two-thirds vote of its governing body if it makes specific findings.

Based on these statutes, the ALUP is not an agency with jurisdiction over the Project because final approval of the Project is the subject of the City of Selma which retains authority under specified circumstances and procedures to override any contrary action by an ALUC. Therefore, because of the ALUC's lack of "*jurisdiction over the Project*", if the City of Selma does in fact determine the need to exercise its override authorities with respect to any ALUC determinations, that circumstance will not create a significant impact based upon the standard of

significance set forth above. There is therefore no need for a mitigation measure with respect to this circumstance.

It should also be noted that, based on the clarification set forth regarding Mitigation Measure 9.1, those portions of the Project within the inner approach zone of the Selma Aerodrome shall incorporate a site plan that complies with the Fresno County Airports Land Use Policy Plan criteria for siting of structures located within the inner approach zone.

10. The commenter suggests that a reference to a potential six minute exceedance of Fire Department Response time stated in the EIR (Impact 14.3.1), and the conclusion that there was therefore inadequate emergency access, may not have fully taken into account roadway improvements otherwise required by the EIR. The commenter is correct in that regard. The opening day traffic mitigation identified in the DEIR (Year 2010 with Project Phase 1 Conditions) will be sufficient to address any existing inadequate emergency access. This is reflected in the DEIR on page 15-52.

To clarify this circumstance, the EIR is revised to include, as a new Mitigation Measure 14.3, a requirement that the mitigation required for opening day traffic requirements detailed in on page 15-43 - 44 of the DEIR (under Year 2010 with Project Phase 1 Conditions) shall be implemented.

11. The commenter has suggested that clarifying language should be added regarding Mitigation Measure 14.11, to clarify that the "per lot assessment fees" should reference "water supply facility fees assessed by Cal Water in accordance with applicable CPUC rate regulations." The requested language shall be added to Mitigation Measure 14.11.
12. The Commenter notes an inconsistency with the EIR's evaluation of emergency access in Section 14.3.1 versus the determination at page 15-52. This issue is addressed by the clarifications detailed in response to Comment 10, above.

N. Consolidated Irrigation District

1. The comment is focused on a concern that the mitigation measure identified in the DEIR for its identified ground water aquifer impacts (Mitigation Measure 10.1(a)) is the payment of an annual assessment to the District of \$130 per acre foot for the project's additional consumptive use for the 94 acre project (estimated at \$18,460 annually).

It is important to initially note that the proposed annual assessment to mitigate the impacts of the Project's additional consumptive use is based on the proposed cooperative agreement that the District previously endorsed. That cooperative agreement (the "Draft Agreement") is referenced on page 10-6 of the EIR.

Attached to this response as Exhibit B is a copy of the Draft Agreement and relevant transmittal correspondence. The provision recommending annual assessments is detailed in Section 2(d) on page 4 of the Draft Agreement.

Mitigation Measure 10.1(a) therefore recommends a measure that will provide the District with the funds that it has previously identified as an appropriate mitigation to the subject impact. CEQA recognizes that, in the context of cumulative impacts, the payment of a fee to implement a fair share of mitigation measures identified to alleviate the cumulative impact is appropriate (Guidelines Section 15130(a)(3)).

Comment 1 therefore appears solely related to the effectiveness of receiving the payment directly from the Project owner rather than relying on some other authority of the City to assure future annual payments of the groundwater fee. It is apparent that the commenter's only concern regarding Mitigation Measure 10.1(a) is that it violates a present desire of the District to not rely on agreements with project developers. CEQA and other development processes, however, routinely rely on agreements by project owners to pay annual fees. These may be enforced, in some circumstances, by a local agency that has adopted a fee program. In other instances, the ongoing obligation of a project owner to pay an annual payment is adequately addressed through a recordable covenant established as a lien on the real property. Appropriate provisions regarding remedies to enforce payments, and subordinations in favor of institutional lenders, are a common provision in such arrangements.

CEQA Guidelines Section 15126.4(a)(2) specifically notes that the assurance that mitigation measures are enforceable can be established through a number of means, including agreements or other legally-binding instruments. Therefore, there is no requirement that a mitigation measure must be imposed solely by an entity with police powers of enforcement. Therefore, the EIR's recommendation that the Project developer enter into a legally binding agreement with the District to pay an annual assessment to address the cumulative impacts of consumptive water use is an appropriate mitigation measure.

Nevertheless, Mitigation Measure 10.1(a) was only one of three *alternative* proposals that could be implemented to address the potential cumulative impacts that the Project contributes to groundwater overdraft. The unwillingness of the District to assist in standard and appropriate methods of implementing its desired fee program is therefore not a complete impediment to addressing required mitigation in other feasible fashions.

2. The comment is focused on additional alternatives identified in the DEIR for its cumulative impacts on groundwater (Mitigation Measure 10.1(b) and (c)). The comment specifically asserts that the projects identified as potential improvements to groundwater recharge systems have not been adequately assessed to assure that they are "fully feasible".

It is important to note that the source of the projects referenced in Mitigation Measure 10.1(b) and (c) is the July 2007 Engineer's Report prepared for the District by Summers Engineering Inc. (the "Engineer's Report") which the District, in its comment letter recommends that the City rely upon in assessing the need to increase recharge to groundwater (the report listed as item 2 on page 1 of the comment letter). Project 11 is identified in that report as the installation of a new recharge pond on the right bank of the Kingsburg Branch Canal. Project 12 is identified as the need to enlarge certain road crossings and check structures at three identified locations along the Ward Drainage Canal.

The purposes for which the Engineer's Report was prepared is relevant to an assessment as to whether there is substantial evidence to support the feasibility of implementation of the projects. Specifically, the Engineer's Report, as detailed in its "Introduction," was prepared to support the ability of the District to meet the requirements of the California Mitigation Fee Act in justifying a new development fee. The Engineer's Report states that, "This report provides the documentation that is needed for the statutory findings and therefore serves as the District's Nexus study." Attached to this response is a copy of the Engineer's Report.

In the absence of substantial evidence to the contrary, it is reasonable for the City to assume that a "nexus study" prepared by a professional engineering firm which was to be used to justify a new development fee would include a sufficient evaluation of the reasonable feasibility of implementing proposed improvements. Given the nature of the identified projects, there does not appear to be any apparent engineering infeasibility to their implementation. The District hasn't provided evidence to suggest that the projects are not feasible, but simply assert that they have not been subjected to a study to assess their "full feasibility." There is no substantial evidence to raise any doubts as to the feasibility of the recommended mitigation projects, and the City may reasonably rely upon the Engineer's Report in support of that determination in these CEQA proceedings.

3. The commenter states that the project area appeared to include a portion of Rockwell Pond owned by CID and should be removed from the description and depiction of the subject project. A revised site plan for the Project is referenced in Section 16.1 and confirms that Rockwell Pond is not a part of the Project boundary.
4. The commenter suggests that Mitigation Measure 4.1 regarding addressing impacts to prime farmland fails to reflect sufficient enforceable mechanisms. As the commenter indicates, the impact to prime farmland is considered "significant and unavoidable", even with implementation of Mitigation Measure 4.1. In other words, there is no diminished impact resulting from Mitigation Measure 4.1 that was identified and there is therefore no performance standard for that Measure to obtain because the impact is recognized as, in all instances, as significant and unavoidable.

Regarding the general benefit of Mitigation Measure 4.1, and its intended implementation techniques, please refer to the Response to Comment 2 of McCormick Barstow. As detailed in that response, the proposed Mitigation Measure is not deferred. It is simply to be implemented as a component of the policies that may be adopted as part of mitigation measures adopted in conjunction with the pending General Plan update. Imposition of this mitigation measure in this fashion will ensure that the Project does not violate then applicable General Plan mitigation policies. However, the mitigation is not being credited with any reduction in the impacts of the conversion of prime farmland. For the reasons detailed in the above referenced Response to Comment, it is acknowledged that neither fees, nor easements, nor payments to nonprofits, will avoid the loss of prime farmland nor create any new prime farmland. It will thereby not avoid nor substantially lessen significant environmental impacts of the Project to the loss of prime farmland. Nevertheless, the City desires to ensure that the Project will implement General Plan strategies that may be relevant to reducing future conversion of farmland to urban uses.

5. The commenter's suggests that the DEIR fails to apply current recommended approaches for evaluating and mitigating related greenhouse gas emissions. Please refer to the DEIR which notes that it applies guidance¹ adopted by the Governor's Office of Planning and Research (OPR) as the most relevant applicable policy recommendations for evaluation of Greenhouse Gas impacts in the context of a CEQA document. The OPR Guidance which remains applicable until further amendments to the CEQA Guidelines are adopted, provides as follows:

Lead agencies should determine whether greenhouse gases may be generated by a proposed project, and if so, quantify or estimate the GHG emissions by type and source. Second, the lead agency must assess whether those emissions are individually or cumulatively significant. When assessing whether a project's effects on climate change are "cumulatively considerable" even though its GHG contribution may be individually limited, the lead agency must consider the impact of the project when viewed in connection with the effects of past, current, and probable future projects. Finally, if the lead agency determines that the GHG emissions from the project as proposed are potentially significant, it must investigate and implement ways to avoid, reduce, or otherwise mitigate the impacts of those emissions. Although the scientific knowledge and understanding of how best to perform this analysis is rudimentary and still evolving, many useful resources are available (cite omitted).

¹ Governor's Office of Planning and Research. CEQA AND CLIMATE CHANGE: Addressing Climate Change through California Environmental Quality Act (CEQA Review June 18, 2008)

Subsequent to publication of the DEIR, the Resources Agency has published recommended amendments to the CEQA Guidelines² (which in some measure amend the amendments proposed by OPR). The proposed CEQA Guideline amendments ("Pending Guidelines"), provide as follows (OPR Changes are shown in *italicized text underline* (additions) and ~~strikeout~~ (deletions), and Resource Agency changes are shown in **italicized bold underline** (additions) and ~~strikeout~~ (deletions):

*A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program (including, but not limited to, water quality control plan, air quality attainment or maintenance plan, integrated waste management plan, habitat conservation plan, natural community conservation plan, plans or regulations for the reduction of greenhouse gas emissions) **which that** provides specific requirements that will avoid or substantially lessen the cumulative problem (e.g. ~~water quality control plan, air quality plan, integrated waste management plan~~) within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. When relying on a plan, **regulation** or program, the lead agency should explain how implementing the particular requirements in the plan, **regulation** or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project.*

The Pending Guidelines also provide guidance on determining the significance of impacts from GHG emissions. The document states that the lead agency, "should make a good faith effort, based to the extent possible on scientific and factual data, to describe, calculate, or estimate the amount of greenhouse gas emissions resulting from a project." The lead agency should also consider the following factors, among others, when assessing the significance of impacts from GHG emissions on the environment:

1. The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;

² Resources Agency, Revised Text of the Proposed Guidelines Amendments Described in the Notice of Proposed Action dated July 3, 2009 (Pending Guidelines).

2. Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project;
3. The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such requirements must be adopted by the relevant public agency through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project. (Section 15064.4)

The analysis of greenhouse gas emissions, including its quantitative analysis, was conducted in accordance with both the OPR Guidance and consistent with the applicable provisions of the Pending Guidelines. The DEIR concluded that the project may increase greenhouse gas emissions as compared to the existing environmental setting and that there are no existing thresholds of significance applicable to the project, nor are the regulatory requirements that presently exist that the project will violate. The basis for that conclusion is further detailed below. It is also noted that greenhouse gas emissions impacts to global warming, and a project's contribution to such matters, is generally considered as best evaluated as a cumulative impact.

Project Compliance with the California AB 32 Scoping Plan

The emissions from this Project will comply with strategies identified in the AB 32 Scoping Plan, the document that outlines how California will achieve emissions reductions mandated in AB32, the California Global Warming Solutions Act of 2006. Relevant strategies from the Scoping Plan and the Project's consistency with these strategies are shown in the following table:

Project Consistency with the Existing GHG Reduction Plans

AB32 Scoping Plan	
Regulation or Strategy	Project Consistency
<p><u>California Light-Duty Vehicle GHG Standards.</u> Implement adopted Pavley standards and planned second phase of program (Assembly Bill 1493, AB1493). More specifically, AB 1493 required the state to develop and adopt regulations that achieve the maximum feasible and cost-effective reduction of climate change emissions emitted by passenger vehicles and light duty trucks, beginning with the 2009 model year.</p>	<p><u>Consistent.</u> Light-duty vehicles³ traveling to and from the Project will be required to meet these statewide regulations and all other CARB rules that are in effect at the time the vehicle is purchased.</p>
<p><u>Energy Efficiency.</u> Maximize energy efficiency building and appliance standards, and pursue additional efficiency efforts.</p>	<p><u>Consistent.</u> The new buildings to be constructed at the Project will comply with all state energy efficiency standards, including the forthcoming Green Building Standards Code, which becomes mandatory in 2010.</p>
<p><u>Renewables Portfolio Standard (RPS).</u> Currently required to achieve 20% Renewables Portfolio Standard (RPS) 2010. Achieve 33% RPS by both investor-owned and publicly-owned utilities by 2020.</p>	<p><u>Consistent.</u> Pacific Gas and Electric, the provider of electricity to the Project site, will be required to be in compliance with 20% RPS by 2010 and 33% RPS by 2020. Currently, renewable energy makes up about 15% of the PG&E power mix.⁴</p>
<p><u>Low Carbon Fuel Standard (LCFS).</u> Requires the total carbon content in transportation fuels to decrease by 10% by 2020.</p>	<p><u>Consistent.</u> Fuels sold to vehicles traveling to and from the project site will be in compliance with the LCFS once it takes effect.</p>

³ Light duty vehicle (LDV) category includes all vehicles of less than 8,500 lbs (3,859 kg) gross vehicle weight rating (GVWR, meaning vehicle weight plus rated cargo capacity). LDVs are further divided into the following sub-categories: passenger cars, light light-duty trucks (LLDT), below 6,000 lbs GVWR. Heavy light-duty trucks (HLDT), above 6,000 lbs GVWR

⁴ PG&E Web site: May 2009 Bill Inserts, accessed online at the following website:
<http://www.pge.com/myhome/myaccount/explanationofbill/billinserts/>

<u>High Global Warming Potential (GWP) Gases.</u> Adopt measures to reduce high global warming potential gases.	<u>Consistent.</u> These rules will apply to air conditioning systems and, in some consumer products. All applicable air conditioning units purchased for the new buildings will be in compliance with new state rules once they are in place. Consumer products purchased by students or faculty at the project site will also be in compliance with new rules if they are in effect when the products are manufactured.
<u>Goods Movement.</u> Implement adopted regulations for port drayage trucks and the use of shore power for ships at berth. Improve efficiency in goods movement operations	<u>Consistent.</u> Once goods are transported to the project site as part of the construction of new facilities, the transportation of those goods will comply with regulations in effect at the time the goods are transported.
<u>Heavy/Medium Duty Vehicles.</u> Adopt heavy- and medium-duty vehicle and engine measures. A regulation to require retrofits to improve the fuel efficiency of heavy-duty trucks could include devices that reduce aerodynamic drag and rolling resistance.	<u>Consistent.</u> Trucks delivering goods to the project site or removing waste from the project site will be in compliance with these regulations once they are in effect.
<u>Recycling and Waste.</u> Increase waste diversion, composting, and commercial recycling, and move toward zero-waste.	<u>Consistent.</u> All dry wall, steel, and stucco is required to be separated and recycled during demolition and construction of new facilities. Most asphalt will also be reground and reused. Also, most fill dirt will be reused on site or reused on another site.

Project Compliance with the Air District Regulations

On September 17, 2009, the San Joaquin Valley Air Pollution Control District (SJVAPCD) issued a staff report, *Final Draft Staff Report: Addressing Greenhouse Gas Emissions Under the California Environmental Quality Act*. In the staff report, SJVAPCD staff concludes that, "existing science is inadequate to support quantification of impacts that project specific GHG emissions have on global climatic change" and, "The effects of project specific GHG emissions are cumulative, and without mitigation, their incremental contribution to global climatic change could be considered significant. SJVAPCD staff concludes that this "cumulative impact is best addressed by requiring all projects subject to CEQA to reduce their GHG emissions through project design elements."

This approach relies on the use of performance based standards and their associated pre-quantified GHG emission reduction effectiveness (Best Performance Standards). Once Best Performance Standards (BPS) are identified, projects implementing BPS would be determined to have a less than significant individual and cumulative impact on global climate change. Also, because AB 32 identifies a GHG emissions reduction goal of 29%, BPS are expected to exceed the 29% GHG reduction target established by AB 32. Illustrative BPS are provided in the Staff Report, but final BPS have not yet been determined, as there will be a process to receive public input before final BPS are adopted. The SJVAPCD's Governing Board will consider the Draft Staff Report at a meeting in December 2009.

Based on the above information, there are no currently applicable thresholds or regulatory programs that the Project violates.

The commenter also indicates that the City has failed to include data and analysis of VMT in the DEIR. As detailed in page 5-22 of the DEIR, the Project will generate 39,858 total vehicle trips on a daily basis at full buildout. These trips were used as input to the URBEMIS air quality model which includes average trip lengths as input to emission calculations. The CO₂ emissions of those trips is detailed in the EIR, at 48.4 metric tons per year.

6. The commenter suggests that the failure of the DEIR to identify an existing inventory of greenhouse gas emissions in the air basin causes the DEIR to lack a sufficient evaluative factor to consider the impacts of the Project to greenhouse gases and climate change.

It is important to note that greenhouse gas emissions are relevant to *global* climate change. This is not a circumstance where an inventory of existing air contaminants within a specific relatively isolated air basin needs to be evaluated. Such an inventory is not relevant to a consideration of the impacts to global warming or the attainment of the State's regulatory goals. For that reason, no inventory of the existing air basin's greenhouse gas emissions is relevant. The DEIR has, however, assessed the fact that the Project is estimated to increase total greenhouse gas emissions. As a result, it will adversely affect the State's regulatory goal of reducing an existing statewide inventory of greenhouse gas emissions.

If any existing inventory of greenhouse gases is relevant, it is the inventory that has been compiled by the California Air Resources Board (ARB). Those inventories were conducted based on Governor Schwarzenegger's Executive Order S-3-05 in June 2005, which established several greenhouse gas emission reduction targets for California. GHG emissions are to be reduced to 2000 emission levels by 2010; to 1990 emission levels by 2020 (a 29% reduction from Business-as-Usual emissions levels projected for 2020) (CARB 2008); and to 80% below 1990 levels by 2050.

As presented in the ARB Scoping Plan, ARB estimated the 2020 business as usual BAU greenhouse gas emissions to be 596 million metric tons of Carbon Dioxide Equivalent (MMTCO₂E). The State's GHG emissions level in 1990 was approved by ARB in December 2007 to be 427 MMTCO₂E. This sets the 2020 GHG emissions target.

Because the Project may frustrate the attainment of the proposed reduction targets of AB 32 and Executive Order S-3-05, the Project's greenhouse gas emissions have been determined to be a cumulatively considerable contributor to a significant cumulative impact, for which no feasible mitigation measures have been identified. It is clear that a further inventory of existing air basin greenhouse gas emissions will have no bearing on the appropriate evaluation of the significance of these impacts. All relevant inventories are referenced above.

7. The commenter states that certain mitigation measures will not be implemented if they are found not to be "feasible", and is concerned that there is an insufficient standard to assess such feasibility.

The EIR's reference to "feasible" measures in each of Mitigation Measure 5.18, 5.20 and 5.22 was intended to encompass the concept of "feasibility" as defined in the CEQA Statutes and Public Resources Code Section 21061.1, which defines "feasible" as meaning *"capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."* CEQA provides that only "feasible" mitigation measures are required to be adopted. Therefore, where a proposed mitigation measure is determined to not be feasible, its implementation is not required by CEQA.

It is also important to note that Mitigation Measures 5.18, 5.20 and 5.22, are related to mitigation of an impact determined to be a significant cumulative impact regardless of the adoption of the proposed measures. Therefore, if one or more of the proposed measures are determined to not be feasible, that circumstance will not change the nature or severity of the impact that the EIR has disclosed. In other words, there is no diminished impact resulting from Mitigation Measures 5.18, 5.20 and 5.22 that were identified and there is therefore no performance standard for those measures to obtain because the impact is recognized as, in all instances, significant and unavoidable.

The commenter's request for more clarity about how this concept would be applied in the context of Measure 5.18, 5.20 and 5.22 are more specifically addressed below.

With respect to Measure 5.18,

- the first bullet item (meet title 24) is not subject to "infeasibility" and shall be implemented in all events.

- the second bullet item (install heat transfer modules in all furnaces) shall have "infeasibility" determined by the City Building Official, and shall be based on a determination that the costs of installing these elements to furnaces would exceed the cost of the energy that would be saved, or cost 20% above the cost of otherwise available furnace technology.
- the third bullet item (apply light colored, water based paint and roofing materials on all structures) is not subject to "infeasibility" and shall be implemented in all events.
- the fourth bullet item (incorporate use of solar panels for water heating systems) shall have "infeasibility" determined by the City Building Official, and shall be based on a determination that the costs of installing these elements would exceed the cost of the energy that would be saved had a water system otherwise meeting the SJVAPCD Rule 4308 requirements for energy efficiency), or cost 20% above the cost of otherwise available water heating systems meeting the SJVAPCD Rule 4308 requirements.
- the fifth bullet item (incorporate design elements that maximize the use of natural lighting) shall have any "infeasibility" relief determined by the City Building Official, who shall base his assessment on whether the project design meets the standards of the industry to incorporate natural lighting into interior spaces.
- the sixth bullet item (construct parking areas with concrete or nonpolluting materials instead of asphalt) shall have "infeasibility" determined by the City Public Works Director, and shall be based on a determination that the costs of installing non-asphalt parking surfaces would exceed 20% of the cost of other parking surfaces.
- the seventh bullet item (include provisions for energy efficient appliances and lighting), is not subject to "infeasibility", but the condition shall be determined as having been satisfied if the appliances and lighting meet any applicable standards of the California Energy Commission and/or the SJVAPCD (whichever standard has the highest energy efficiency criteria).
- the eighth bullet item (utilize landscaping to shade all buildings and parking areas), is not subject to "infeasibility", but shall be determined as having been satisfied if landscaping plantings satisfy the performance standards for Parking Lot Shading, adopted by the City of Fresno effective February 13, 2006.

With respect to Measure 5.20 (use reclaimed water, where feasible, for all common area exterior landscaping), implementation of this measure shall be determined by the City Community Development Director, and shall be based on a determination that the costs of installing reclaimed water would exceed twice the cost of a standard irrigation system.

With respect to Measure 5.22, the measure shall not be subject to "infeasibility", but the condition shall be determined as having been satisfied through the project's compliance with the SJVAPCD's Indirect Source Review (Rule 9510).

8. The commenter states that mitigation measure 5.19 lacks standards to assess effectiveness of its implementation. As noted in Response to Comment 7, mitigation measure 5.19 relates to mitigation of an impact that is determined to be cumulatively significant regardless of the adoption of the proposed measures. Therefore, if this measure lacks enforcement measures, circumstance will not change the nature or severity of the impact that the DEIR has disclosed. In other words, there is no diminished impact resulting from mitigation measure 5.19 that was identified and there is therefore no performance standard for those measures to obtain because the impact is recognized, in all instances, as significant and unavoidable.

Mitigation measure 5.19 would be implemented in the context of the *Model Water Landscape Efficiency Ordinance* prepared by the State Department of Water Resources (DWR) and recently approved by the State of California. The Water Conservation in Landscaping Act of 2006 (Assembly Bill 1881) requires all local agencies to adopt landscape water conservation ordinances by January 1, 2010. Local agencies may adopt the state Model Ordinance, or adopt a local ordinance that must be as effective as the Model Ordinance in regard to water conservation. If no local ordinance is adopted by January 1, 2010, the state Model Ordinance automatically becomes effective.

New landscapes with at least 2,500 square feet of landscape area are subject to the water efficient landscape ordinance. This would include the subject Project. All new landscapes will be required to provide a landscape documentation package that includes soils analysis, a landscape plan, an irrigation plan, a grading plan, and a long-term maintenance plan. There are two water budgets in the Model Ordinance; the Maximum Applied Water Allowance (MAWA) is an annual water allowance based on landscape area, and local evapotranspiration. The Estimated Total Water Use (ETWU) is an annual water use estimate based on the water needs of the plants actually chosen for a given landscape. The ETWU may not exceed the MAWA; in the case of such exceedance, measures must be taken to reduce water use below the ETWU, including reduction in turf area and substitution of additional low water use and drought tolerant species.

According to the DWR, other benefits of the Model Ordinance include reduced irrigation runoff, reduced pollution of waterways, less property damage, less green waste, increased drought resistance, and a smaller carbon footprint.

9. The commenter states that there are no mitigation measures to reduce VMT or otherwise address GHG emissions. The Project will comply with the SJVAPCD's Indirect Source Review (Rule 9510), which is a program designed to help reduce VMTs. In addition, as detailed above, the Project is consistent with all regulatory programs presently adopted with respect to GHG emissions.
10. The commenter states that the DEIR must address the consequences of project related discharges from the regional wastewater treatment facility. As detailed in Section 14.7.1 of the DEIR, wastewater treatment will be provided by the Selma-Kingsburg-Fowler County Sanitation District (SKF) which is a provider of services to each of those named Cities. SKF operates its wastewater plant in compliance with the Orders of the California Regional Water Quality Control Board (Order No. 5-01-255). The operation of the facilities of SKF, under the terms of the Order, are designed to address all discharge issues of the plant. Any expansion of the SKF plant will be subject to future environmental evaluation, and shall be based on criteria for issuance of permits from the California Regional Water Quality Control Board. The proposed project mitigation measures include a requirement that, for each phase of the proposed Project, SKF must confirm sufficient capacity to serve the proposed development. Based on these circumstances, there is no substantial evidence to support a conclusion that the project's discharge of wastewater to the SKF plant will result in any significant environmental impacts, provided that the mitigation measures related to pipeline capacities detailed in the EIR are addressed.
11. The commenter has suggested that the cumulative impacts analysis of the EIR needs to address the recently circulated DEIR for the City of Selma's General Plan Update.

Selma's General Plan Update is hereby incorporated as an additional project in the Table 16-2 Pending Projects list. Chapter 5 of the DEIR for the City of Selma's General Plan update is hereby incorporated by this reference. That Chapter provides an analysis of the cumulative impacts of the adoption of the proposed General Plan Update. This Project is consistent with the land uses incorporated into the General Plan Update. As a result, the project will therefore add no incremental contribution to any cumulative impacts of development that are not otherwise assessed and accounted for in the cumulative impacts analysis set forth in the General Plan Update DEIR. The General Plan Update DEIR more specifically notes that the General Plan Update will have the following cumulative impacts:

1. Aesthetics. Would not result in a cumulatively considerable aesthetic impact.
2. Agricultural Resources. Would be an incremental contributor to a significant and cumulative considerable impact to agricultural resources.
3. Air Quality. Would be an incremental contributor to a significant and cumulative considerable impact to air quality.

4. Biological Resources. Would not result in a cumulatively considerable impact to biological resources.
5. Cultural Resources. Would not result in a cumulatively considerable cultural resources.
6. Geology and Soils. Would not result in a cumulatively considerable impact.
7. Hazardous Substances and Wastes. Would not result in a cumulatively considerable impact.
8. Hydrology and Water Quality. Would not result in a cumulatively considerable impact.
9. Land Use. Would not result in a cumulatively considerable impact.
10. Mineral Resources. Would not result in a cumulatively considerable impact.
11. Noise. Would not result in a cumulatively considerable impact.
12. Population and Housing. Would not result in a cumulatively considerable impact.
13. Public Services. Would not result in a cumulatively considerable impact.
14. Recreation. Would not result in a cumulatively considerable impact.
15. Transportation and Circulation. Would be an incremental contributor to a significant and cumulative considerable impact to traffic.
16. Utilities/Service. Would be an incremental contributor to a significant and cumulative considerable impact to wastewater services, but not a cumulatively considerable impact to water infrastructure, water quality, storm drainage or solid waste.
17. Global Climate Change. Would be an incremental contributor to a significant and cumulative considerable impact to greenhouse gas emissions.

The commenter has suggested that the cumulative impacts analysis of the EIR needs to address the recently circulated DEIR for the City of Parlier Sphere of Influence Expansion. That project was not included on the Table 16-2 Pending Projects list as the territory that is the subject of the Parlier project are not within the study area for cumulative impacts analysis.

We understand that the commenter may be concerned that the development of Parlier may add to an impact to the underground aquifer. In that regard, it should be noted that the Engineer's Report discussed in Response to Comment 2 was proposed to support a mitigation program regarding the impacts on the underground aquifer of development within a number of communities other than Selma, including specifically Parlier. The mitigation measures regarding impacts to groundwater recommended by that Engineer's Report are being effectively implemented through an ad hoc imposition upon this Project of a fair share contribution to the projects detailed in the Engineer's Report as required for mitigation.

Since the Engineer's Report took into consideration a cumulative analysis in its recommendations of required mitigation actions, the adoption of mitigation consistent with that Report provide for mitigation of this project's contribution to any cumulatively significant impact on the groundwater depletion, including depletion associated with any development of the Parlier Sphere of Influence Expansion. This project is therefore not an incremental contributor to a cumulatively considerable impact.

12. The commenter has indicated that the DEIR fails to take into account the expansion of the City spheres for Selma and Parlier. This issue is addressed in Response to Comment 11.
13. The commenter indicates lack of knowledge of a proposed alternative recommended by the City of Selma to the new cooperative agreement. The item referenced by the commenter is in the regulatory framework section respecting hydrology. If the commenter wasn't previously made aware of that circumstance, the information in the DEIR has resolved that. Additional information about that proposal will be made available directly to the commenter. The information is not relevant to an assessment of the Project impacts, however, and is therefore not set forth in detail in this Response to Comment.
14. The Commenter indicates that the hotel project is not accounted for in the water demand projections set forth on page 10-9. The Water Supply Assessment Report prepared for the Project by the California Water Service Company details that the hotel component of the project is estimated at 120,900 square feet. The commenter is correct that the square footage for the hotel room was erroneously omitted from the table in the DEIR. That total area is 3.7 acres or an estimated 102,900 square feet.

However, the October 17, 2008 Water Supply Assessment (the "610 Study") conducted by the California Water Service Company ("Cal Water"), is the basis for the information detailed in the Water Demand forecasts for the Project in the DEIR. As detailed in that 610 Study, the hotel is proposed as a 102 room hotel on 3.7 acres, and contains an estimated 120,900 square feet (see page 3 of the 610 Study, under "Project Description").

It is important to note that the 610 Study concluded that the overall project should be evaluated based on a range of mixes of proposed retail uses. It therefore determined that the estimated average annual day use of water for the non-restaurant component of the project at .02 gallons per day per square foot.

The proposed 102 room hotel is of a class that would be a "business" hotel that doesn't include conference centers or restaurants. So, it primarily reflects a residential type use. Reference is made to the Water Supply Assessment Report prepared by Cal Water for the General Plan Update (the "General Plan 610 Study").

That report was prepared July 2009, and a copy of that document is incorporated by this reference. The General Plan 610 Study is based on a proposed General Plan which provides for planned land uses on the Project site consistent with the Project. On that basis, the General Plan 610 Study supports the conclusion that the Project's 610 Study reflects sufficient water supply for the projected demand.

More specifically, the General Plan 610 Study reflects that, with respect to residential uses, the City of Selma reflects 253.1 gallons per capita per day for residential uses. (page 3-2 of the General Plan 610 Study). This compares with a statewide per capita demand of 190 gallons per day.

If we conservatively project that a hotel project will use a per capita demand equal to the City of Selma's average per capita demand, based upon 100% of its room occupancy (assuming one occupant per room), this would yield a total water demand for the hotel project of 25,816.2 gallons per day ($253.1 \times 102 = 25,816.2$). This demand factor, when divided by the square footage of the project (120,900 square feet), yields a per square foot demand of 0.213533 gallons per day per square foot.

As noted above, the estimated average annual day use of water for the non-restaurant component of the Project was estimated in the 610 Study at .02 galls per day per square foot. The hotel uses were considered as a component of the square footage of such retail uses. The 0.2 galls per day assumption that is included in the 610 Study is therefore a reasonable demand factor for the hotel component. This is further supported by the determinations of the General Plan 610 Study, and the City of Selman's per capita water demands detailed in that Study.

15. The commenter indicates lack of knowledge of an effort to initiate discussions with the District about studying the feasibility of a program to increase surface water recharge in the groundwater basin within the Selma Area. If the commenter wasn't previously made aware of that circumstance, the information in the DEIR has resolved that. Additional information about that proposal will be made available directly to the commenter. The information is not relevant to an assessment of the Project impacts, and is therefore not set forth in detail in this response.
16. The commenter suggests that the 610 Study inappropriately recognized the groundwater recharge benefits of the waste water treatment plant that serves the City of Selma, when calculating the impact to the groundwater aquifer of the Project's water demands. The apparent basis for this claim is the argument that the SKF facility, south of the City, doesn't recharge the relevant groundwater basin.

It is important to note that the City of Selma and the SKF facility are both within the Kings Sub-basin of the San Joaquin Valley Groundwater basin. It is also noted that the District has prepared and adopted a groundwater management plan for the basin that encompasses the City of Selma and the lands of the SKF facility. That document is included with the General Plan 610 Study, and is also incorporated herein by this reference. Cal Water is a signatory, by MOU, to help implement the policies of that groundwater management plan.

The commenter, by its suggestion, is effectively proposing an effort to manage the groundwater basin under the City of Selma using a proposed sub-subbasin that is not recognized by the resource agencies that are managing the water basin resources. The General Plan 610 Study has declined to adopt this approach. Credit for recharges within the Kings sub-basin, and within the territories included with the District's groundwater management plan is the more appropriate approach.

O. Law Offices of William D. Ross

1. The comment is focused on a request that there be an analysis of the economic impact of Project development on the budgets of the City of Selma and the budget of the District. CEQA does not require an assessment of the economic impacts of a Project unless the economic impact is part of a chain of causation that would lead to other physical impacts. (CEQA Guidelines Section 15121). Where a claim is made that a physical impact will result from some economic effects of a project, and such claim is based solely on speculation and unsubstantiated opinion, there is no requirement that CEQA conduct an analysis of such circumstances (Friends of Davis v. City of Davis (3d Dist. 2000) 83 Cal.Appl.4th 1004).

As detailed in the DEIR, there are adequate public services available to serve the Project. It is therefore unsubstantiated speculation that the project's development would lead to a fiscal burden on the City that would result in a loss of municipal services and a concomitant physical impact.

With respect to impacts on the District, the current property tax generated from the parcels within the Project as tax base to the District totals approximately \$7,125. This is from a total estimated annual property tax revenue within the District of approximately \$17,000,000 (0.042%).⁵

⁵ According to the Fresno County Assessor, the total assessed value within the District is \$12,217,328,082 and the assessed value of the five parcels on the site (APNs 348-191-06s, 07s, 08, 10s and 11s) is \$5,120,228. The District distribution factor of the total property tax is .0159840, or about 16% of the total Proposition 13 Tax Rate of \$1 per \$100 of assessed value. In 2006, the District received about 87% of the gross property tax (gross tax minus exemptions, administrative costs, etc.). Therefore, the total annual property tax to the District is estimated at \$17,000,000 (\$12.217 billion x .01 x 16% x 87%) and the property tax to the District from the Project parcels is estimated at \$7,125 (\$5.12 million x .01 x 16% x 87%). The total 2009-2010 District budget is \$20.5 million.

The District will lose such revenues, as well as the economic burden of providing fire support to the Project site. In addition, the District has in place with the City of Selma a transition agreement requiring the payment of fees to the District as annexation occurs. There is no substantial evidence to suggest that this loss of financial support to the District will result in any environmental affects to the Project or otherwise to other lands in the District.

Unlike other CEQA matters where substantial evidence in the form of expert opinion existed as to the potential threat of a Project's development on potential future urban decay (*Bakersfield Citizens for Local Control v. City of Bakersfield* (5th Dist. 2004) 124 Cal.App.4th 1184), the expressed concern in this instance focuses solely on the impact of Project development on public agency budgets. That impact, if any, would be reflected in the ability of the relevant agency to provide services to the Project. As detailed in the DEIR (Section 14), there is an ability to provide public services to the Project, many of which would be constructed and/or funded by the developer.

2. The commenter suggests that the Project description should include a description of budget circumstances of State and local government. This appears to be a misconception about the nature and purposes of a Project description in the context of CEQA review. Under CEQA, a Project is defined as being various relevant activities "which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." The Project that is the subject of this EIR is not an activity that is creating or intended to address the budget circumstances that the commenter references.

More specifically, the CEQA Guidelines, at Section 5124, provide in relevant part that a Project Description must contain the following information in sufficient detail to support the evaluation and review of the Project's environmental impact:

- (a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.*
- (b) A statement of the objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.*
- (c) A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.*
- (d) A statement briefly describing the intended uses of the EIR.*

Each of these elements are set forth in Section 2 of the DEIR.

The commenter is suggesting that the Project Description should reflect elements of governmental budget circumstances not related to the Project's location, objectives, technical, economic, or environmental characteristics. The circumstances detailed are therefore not appropriate for inclusion in a Project Description under CEQA.

3. The commenter suggests that a failure to specifically identify existing public service providers to the Project territory fails to provide an appropriate "environmental baseline" for EIR analysis. The CEQA Guidelines, at Section 5125, provide that an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.

The Guidelines further define the term "Environment" at Section 15360 to mean the **physical conditions** (emphasis added) which exist within the area affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The "environment" includes both natural and man-made conditions.

While service providers are not a necessary component of the environmental baseline of the Project, the identification of the proposed service providers is relevant to any analysis of the availability of public services to the Project. These items are detailed in Section 14 of the EIR. That Section of the EIR identifies the intended service providers to the Project, and the adequacy of their availability, including fire protection services, police services, schools, parks and recreation services, sewer services, water services, solid waste services, electricity and natural gas services. The fact that the District will not be a public service provider for fire protection services is noted, but it is not a relevant factor to either the environmental setting of the Project, nor an analysis of the adequacy of the availability of relevant public services to serve the Project.

With respect to the suggestion that existing public improvements are not adequately identified in the environmental setting section, please refer to the Project Description (Section 2) of the DEIR which details the Project location, including existing site uses and conditions.

4. The commenter suggests that the lack of detailing the City's budget circumstances in the Project description results in an inadequacy of analysis of the Project's environmental impacts. As detailed in Response to Comment 2, the City's budget circumstances are not a relevant element of a Project description. Therefore, the lack of including that information in the Project description does not render any of the analysis of the Project impacts inadequate. A concern cited is that the City's budget circumstances, if detailed in the Project description, would have provided a better ability to analyze impacts to the District of a resulting loss of property taxes.

Even if the City's budget circumstances were relevant to a project description, that would not have any relationship to the impact to the District of its loss of property tax revenues. As noted in Response to Comment 1, the loss of the current tax revenues generated from the project as tax base to the District totals approximately \$7,125 annually.

5. The commenter suggests that failure to identify existing public improvements in the environmental setting section results in an inadequacy of analysis of the Project's environmental impacts. However, as noted in Response to Comment 3, the relevant existing site uses and conditions are detailed in the Project Description (Section 2) of the DEIR.

To the extent the commenter is focused on boundaries of service providers rather than physical public improvements, as detailed in Response to Comment 3, the identity of existing service providers is not relevant to an environmental baseline and the failure to include such doesn't result in any inadequacy of analysis of the Project's environmental impacts. As noted in Response to Comment 3, the adequacy and availability of public services to the Project are detailed in Section 14 of the EIR.

6. The commenter suggests that the impact of detachment of the Project site from the District is an impact that should be addressed in the DEIR. It is further acknowledging that analysis of which service provider is best suited to provide fire protection is within the province of LAFCO and that evaluation is not requested. Instead, they suggest that the environmental impacts of revisions to the existing land uses and their intensity need to be adequately reviewed, analyzed and disclosed to the public.

In this regard, please refer to Sections, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of the DEIR, which detail a review, analysis and disclosure of the impacts of the enhanced intensity of land uses in the project vicinity.

The sole suggested environmental impact that would result from the detachment with annexation is loss of existing property tax to the District. To the extent that the loss of existing tax base to the District might result in an environmental impact that needs to be analyzed in the DEIR, a resulting significant environmental impact must be identified that is caused by the loss of the current tax revenues generated from the project. The current property tax to the District totals approximately \$7,125 annually (offset by a reduction in territory to be served by the District as well as the transition agreement between the City and District).

To the extent that the commenter is attempting to use CEQA as a tool to debate and dispute existing policies regarding the allocation of property tax revenues to local governments and special districts, that is not an appropriate application of CEQA.

This is reflected in the exemption from CEQA established by Guidelines Section 15273, which, in general, provides that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of meeting various current operating expenses and service requirements. Clearly a tax allocation concern of the kind being raised by the District is similar to the above revenue generation issues, and is more appropriately addressed in the context of the District's budgets, operational approaches, or broader tax reform policies.

7. The commenter generally alleges that the DEIR fails to include a reasonable range of Project alternatives but the number and nature of the alternatives detailed in the DEIR are not specifically commented on. Instead, the comment focuses its concerns on the need to have economic viability considered as a factor when assessing the feasibility of alternatives. More specifically, the commenter indicates that there is an inadequate range of alternatives because the project description and environmental settings and project analysis are inadequate, and for that reason none of the alternatives can be fairly compared to the Project.

As noted in Response to Comment 2, the Project Description meets the requirements of CEQA, and there is no requirement for a project description to describe the budget circumstances of the state and local governments. In addition, as noted in Response to Comment 3, the project description includes an appropriate detail of the environmental baseline, including reference to the existing public improvements that are relevant to the analysis. Further, that environmental baseline is not inadequate because of a failure to specifically identify existing public service providers to the Project site. As noted in Comment 6, the Project's impacts are fully detailed in the DEIR, and no substantial evidence has been provided to support any such inadequacy.

The commenter more specifically asserts that failure of the DEIR to analyze the budget impacts of a loss of property tax revenue from the Project site results in an inability to fairly evaluate alternative sites that would not result in such budget impacts.

However, alternatives are to be evaluated based on whether they can avoid or substantially lessen significant environmental impacts of the Project, which have not been identified in this instance (Guidelines Section 15126.6(a)). Specifically, the loss of approximately \$7,125 annually to the District hasn't been identified as resulting in any significant environmental impact to territories served by the District. Therefore, the alternatives analysis need not address whether any alternative would avoid or substantially lessen the fiscal impact to the District's budget. (See CEQA Guidelines Section 15126.6(f)(2), which provides that "Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.")

8. Because the DEIR does not provide a description of the economic impact of the Project to the District's budget resulting from detachment, the commenter generally states that there is a failure to provide adequate mitigation of the Project's environmental impacts. As detailed in Response to Comments 1 through 7 above, the impact to the District's budget has not been identified as resulting in a significant impact to the environment, and no substantial evidence exists to support such a claim. An EIR is required to identify and adopt feasible mitigation measures to substantially lessen or avoid otherwise significant adverse environmental impacts (Public Resources Code Section 21002, 21081 (a), Guidelines Section 15002(a)(3) 15021(a)(2) and 15091(a)(1). There is no requirement for an EIR to adopt mitigation measures to address budget impacts to local government agencies triggered by a project, unless there is substantial evidence of a significant environmental impact related to such budget impact.

EXHIBIT A
COMMENT LETTERS

- A. County of Fresno Department of Public Works and Planning
- B. County of Fresno Department of Public Health, Environmental Health Division
- C. Fresno Irrigation District
- D. Bingham, McCutchen, LLP
- E. Jeannette Jurkovich
- F. California Department of Transportation
- G. California Public Utilities Commission
- H. Pacific Gas and Electric Company
- I. San Joaquin Valley Air Pollution Control District
- J. Consolidated Mosquito Abatement District
- K. California Department of Conservation
- L. Fresno Local Agency Formation Commission
- M. McCormick Barstow, Sheppard, Wayte, & Curruth LLP
- N. Consolidated Irrigation District
- O. Law Offices of William D. Ross



Letter A

County of Fresno

Department of Public Works and Planning
Severo Esquivel
Interim Director

October 26, 2009

2009

Greg Martin
City of Selma Community Development Department
1710 Tucker Street
Selma, CA 93662

Dear Mr. Martin:

SUBJECT: Rockwell Pond Commercial Project DEIR

The County of Fresno appreciates the opportunity to review and comment on the City of Selma's Rockwell Pond Commercial Project DEIR. Based on the County's review of the project, we have no comments at this time.

We appreciate the opportunity to comment on the project. If you have any questions you may send an e-mail to me at bryanseanwhite@co.fresno.ca.us or call me at (559) 442-2556.

Sincerely,

Bryan Sean White, Planner
Development Services Division

c: Theresa Acosta-Mena, Senior Planner, Environmental Analysis Unit

G:\360\Devs&Plan\EnvPlan\OAR\City of Selma\Rockwell Pond EIR\DEIR\Comment Letter.doc

DEVELOPMENT SERVICES DIVISION

222 - Tulare Street, Sixth Floor • Fresno, California 93721 • Fresno: (559) 262-4055 • 262-4029 • 262-4597 • 262-4022 FAX: 262-4093
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Letter B

County of Fresno

Department of Public Health
Edward L. Moreno, M.D., M.P.H., Director-Health Officer

October 12, 2009

999999999
LU0013953
PE 2600

Greg Martin, Associate Planner
City of Selma Community Development Department
1700 Tucker Street
Selma, CA 93662

Dear Mr. Martin:

SUBJECT: Rockwell Pond Draft Environmental Impact Report

LOCATION: Property bounded by Floral Avenue to the south, De Wolf Avenue on the west, Rockwell Pond on the north, State Route 99 on the northeast, and existing commercial development (*Wal-Mart, J.C. Penny, Dollar Tree, Big Five, etc.*) to the east.

The Fresno County Department of Public Health, Environmental Health Division has reviewed the Draft Environmental Impact Report for the above noted project, and concurs with the information contained within and has no comments to offer at this time.

If I can be of further assistance, please contact me at (559) 445-3357.

Sincerely,

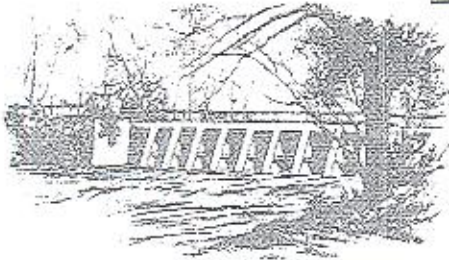
R.E.H.S., M.S.
Environmental Health Specialist III
Environmental Health Division

ga

cc: Bryan White, Development Services Division

Selma-Rockwell Pond DEIR

Letter C



YOUR MOST VALUABLE RESOURCE - WATER



OFFICE OF
TELEPHONE (559) 233-7161
FAX (559) 233-8227
2907 S. MAPLE AVENUE
FRESNO, CALIFORNIA 93725-2218

September 16, 2009

Mr. Greg Martin, AICP
City of Selma
Community Development Department
1710 Tucker Street
Selma, CA 93662

RE: Notice of Availability/Completion of a Draft Environmental Impact Report,
Rockwell Pond Commercial Project

Dear Mr. Martin:

The Fresno Irrigation District (FID) has reviewed the Notice of Availability/Completion of a Draft Environmental Impact Report for the Rockwell Pond Commercial Project within the City of Selma and has the following comments:

1. The Rockwell Pond Commercial Project is not located within the boundaries of the Fresno Irrigation District.
2. FID expects no adverse impacts from the approval of the subject proposal.

Thank you for submitting this for our review. We appreciate the opportunity to review and comment on the subject documents for the proposed project. If you have any questions please feel free to contact James Shields at 233-7161 extension 319 or jshields@fresnoirrigation.com.

Sincerely,

William R. Stretch, P.E.
Chief Engineer

G:\projects\Selma\Environmental Impact Report\Rockwell Pond Commercial Project.doc

BOARD OF DIRECTORS
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STEVE RALLS, RYAN JACOBSEN, GEORGE PORTER, General Manager: GARY D. SERRATO

BIRCHAM

Letter D

Marie A. Cooper
Direct Phone: 415.393.2625
Direct Fax: 415.262.9236
marie.cooper@bircham.com

September 29, 2009

Greg Martin, AICP
Associate Planner
City of Selma Community Development Department
1710 Tucker Street
Selma, CA 93662


Re: Rockwell Pond Commercial Project - City of Selma

Dear Mr. Martin:

I received a Notice of Availability/Completion of a Draft EIR, along with a disk regarding the above-referenced project. Please be advised that I am not working on this project and take me off of your mailing/service list.

I have forwarded the materials I received to Art Coon at Miller, Starr & Regalia. I believe he is now working on this matter.

Sincerely yours,


Marie A. Cooper

Boston
Hartford
Hong Kong
London
Los Angeles
New York
San Francisco
Seattle
Singapore
Tampa
Washington, DC
Waltham

Birmingham, AL
Dallas, TX
Denver, CO
Houston, TX
Los Angeles, CA
Miami, FL
Minneapolis, MN
New York, NY
Phoenix, AZ
Portland, OR
San Francisco, CA
Seattle, WA
Tampa, FL
Washington, DC
Waltham, MA

415.393.2625
415.262.9236
415.393.2625

Letter E

Janet

I would like a cd for the general plan if you can send me one. Unless it is on the website somewhere. I looked but didn't locate the DEIR for the GP. I already have a cd for Rockwell.

I've only looked a short time at the Rockwell project so far. Potential historic resources were on the site--5 houses, I think. The writeup said if activities would disturb those resources, a review of the structures should be done. Actually, that is what the current EIR should be doing. Sounds like there is a potential significant impact for one of the buildings-- the one that looks like a turn of the century farmhouse. The EIR should determine whether that home meets the criteria for being a historic resource and identify feasible mitigation measures that would become project conditions to address those potential impacts if that area was going to be impacted. Food for thought to save having new delays. I will probably be sending a formal comment on the rockwell pond project later. jj

--- On Mon, 9/14/09, Bryant Hemby <BryantH@cityofselma.com> wrote:

From: Bryant Hemby <BryantH@cityofselma.com>
Subject: RE: Public notice
To: "jjurkovich" <jjurk@pacbell.net>
Date: Monday, September 14, 2009, 8:55 AM

Good morning.

The DEIR for Rockwell Pond is on our web site under the Planning Page.

Do you still want a copy or CD?

From: jjurkovich [mailto:jjurk@pacbell.net]
Sent: Thursday, September 10, 2009 5:30 PM
To: Bryant Hemby
Subject: Re: Public notice

Bryant:

I need to acquire a copy of the proposed DEIR as soon as possible as the comment period has begun.

Please advise me of where I can pick up a copy (or a cd version) of the entire document and

appendices. The document could also be mailed to me if that is convenient. Many cities have begun to post their environmental documents on their web pages. A general plan document is especially important to citizens. Does Selma intend to post this on their website, and if so, when?

JJ

--- On Thu, 9/10/09, Bryant Hemby <BryantH@cityofselma.com> wrote:

From: Bryant Hemby <BryantH@cityofselma.com>
Subject: Public notice
To: "Al solis" <Al@soldevelopment.com>, "Andrew Kazarian" <ak@circlekranch.com>, "Angela Gamino" <angela.gamino@kflba.com>, "Bitta Toor" <calinvestor@gmail.com>, "Brad Erickson" <Bradergla@aol.com>, "Conrad Burrola" <conrad9065@pngusa.net>, "Donald Shantz" <dbshantz@sbcglobal.net>, "Erlinda Martinez" <jjj1313efm@sbcglobal.net>, "James Pace" <james@wellingtoncorporation.com>, "janet" <jlaurain@adamsbroadwell.com>, "Jeanette Jurkovich" <JJurk@pacbell.net>, "Jeff Chuang" <jeff@wellingtoncorporation.com>, "Julian Chapa" <jcc.01@hotmail.com>, "Larry Cerretti" <ibcerutti@aol.com>, "larry Raven" <corvino@pacbell.net>, "maria" <mmeza559@yahoo.com>, "meza" <meza131@yahoo.com>, "Michael Jones" <michael.e.jones@cummings.com>, "Michael O'Brien" <Morgaobrien1969@aol.com>, "Mike" <michaelgaston@michaelgastonassoc.com>, "Pete Esraelian" <pcteesraelian@sbcglobal.net>, "Rudy Topoozian" <rubyttopoozian@sti.net>, "Sheila Otteson" <smo@psnw.com>, "Simon Sihota" <simonsihota@sbcglobal.net>, "Stan Louie" <Stanlouie@cvip.net>, "Stephanie Sherrell" <stephanie@cidwater.com>, "Steve Deblauw" <sdeblauw@yahoo.com>
Cc: "Gregory Martin" <GregoryM@cityofselma.com>
Date: Thursday, September 10, 2009, 11:41 AM

Good morning

Attached is a copy of the Selma's General Plan Update Public review notice

DEPARTMENT OF TRANSPORTATION

DISTRICT 6
1352 WEST OLIVE AVENUE
P.O. BOX 12616
FRESNO, CA 93778-2616
PHONE (559) 445-3868
FAX (559) 488-4088
TTY (559) 488-4066



OCT 29 2009

Flex your power!
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October 28, 2009

2131-JGR/CEQA
6-FRE-99-6.512+/-
ROCKWELL POND SPECIFIC PLAN
DRAFT EIR
SCH 2007061098

Mr. Greg Martin
City of Selma
1710 Tucker Street
Selma, CA 93662

Dear Mr. Martin:

We have completed our review of the Draft Environmental Impact Report (DEIR) for the proposed Rockwell Pond Commercial project that would be developed in two phases. The project would ultimately consist of approximately 973,100 square feet of retail space on 94 acres. The project is located along the north side of Floral Avenue, west of State Route (SR) 99. Caltrans has the following comments:

Caltrans previous comments dated August 6, 2007 and July 14, 2009 continue to be valid. Copies of those comments are enclosed.

Previous traffic studies have already identified the need for improvements to the SR 99 northbound off-ramp to Floral/SR43 (add 2 lanes), the SR 99 southbound on-ramp from Floral/SR43 (left-turn from SB 43 to SB on-ramp), and the SR 43 intersection at Rose Avenue (signals and SB right-turn lane).

At the SR 99 southbound exit-ramp to Floral Avenue, a review of Tables 15-10 and 15-13 indicates that this intersection currently operates with a satisfactory level-of-service and could be expected to continue operating with a satisfactory level-of-service in the near future without the projected traffic from this proposed development. A review of Table 15-14 indicates that the addition of the first phase of this proposed development would result in this intersection operating at an unsatisfactory level-of-service at opening-day. In order to mitigate for this significant opening-day impact, the traffic study recommends the addition of through lanes along Floral Avenue; however, the length of the SR 99 structures crossing over Floral Avenue constrains the total number of lanes along this segment of Floral Avenue to the number that

"Caltrans improves mobility across California"

Mr. Greg Martin
October 28, 2009
Page 2

exists today. It is understood that there have been various ideas as to how to maximize the number of lanes that could be accommodated under the structures; however, thus far none of the ideas presented have proven feasible. Therefore, Caltrans concludes that the proposed project would result in stop-and-go operation with severe delays and heavy congestion. Traffic volume will be limited by the maximum discharge rate of each phase. Continuous backup in varying degrees will occur on all approaches. Where downstream capacity is restrictive, congestion will impede the orderly discharge of traffic through the intersection.

At the intersection of Highland Avenue and Floral Avenue, a review of Table 15-10 indicates that this intersection currently operates with a satisfactory level-of-service. A review of Table 10-13 indicates that this intersection could be expected to operate with a level-of service bordering between satisfactory and unsatisfactory in the near future without the projected traffic from this proposed development. A review of Table 15-14 indicates that the addition of the first phase of this proposed development would result in this intersection operating at an unsatisfactory level-of-service at opening-day. In order to mitigate for this significant opening-day impact, the traffic study recommends the addition of through lanes and left-turn lanes along Floral Avenue; however, as previously indicated the length of the SR 99 structures crossing over Floral Avenue constrains the total number of lanes along this segment of Floral Avenue to the number that exists today. It is understood that there have been various ideas as to how to maximize the number of lanes that could be accommodated under the structures; however, none of the ideas presented thus far have proven feasible. Therefore, Caltrans concludes that the proposed project would result in stop-and-go operation with severe delays and heavy congestion. Traffic volume will be limited by the maximum discharge rate of each phase. Continuous backup in varying degrees will occur on all approaches. Where downstream capacity is restrictive, congestion will impede the orderly discharge of traffic through the intersection.

At the SR 99 northbound exit-ramp to Floral Avenue, a review of Tables 15-10 and 15-13 indicates that this intersection currently operates with a satisfactory level-of-service and could be expected to continue operating with a satisfactory level-of service in the near future without the projected traffic from this proposed development. A review of Table 15-14 indicates that the addition of the first phase of this proposed development would result in this intersection operating at an unsatisfactory level-of-service at opening-day. In order to mitigate for this significant opening-day impact, the traffic study recommends the addition of through lanes along Floral Avenue; however, the length of the SR 99 structures crossing over Floral Avenue constrains the total number of lanes along this segment of Floral Avenue to the number that exists today. It is understood that there have been various ideas as to how to maximize the number of lanes that could be accommodated under the structures; however, none of the ideas presented appear to be realistic. In order to mitigate for this significant opening-day impact, the traffic study also recommends additional lanes on the exit-ramp. Therefore, the proposed development should be 100 percent responsible for the additional lanes to this exit-ramp. It is further recommended that these additional lanes should be fully functional by opening-day. However, even with the additional lanes to this exit-ramp, Caltrans concludes that the proposed project would still result in stop-and-go operation with severe delays and heavy congestion. Traffic volume will be limited by the maximum discharge rate of each phase. Continuous

Mr. Greg Martin
October 28, 2009
Page 3

backup in varying degrees will occur on all approaches. Where downstream capacity is restrictive, congestion will impede the orderly discharge of traffic through the intersection.

At the SR 99 southbound ramps at Highland Avenue, a review of Tables 15-10 and 15-13 indicates that this intersection currently operates with a satisfactory level-of-service and could be expected to continue operating with a satisfactory level-of service in the near future without the projected traffic from this proposed development. A review of Table 10-14 indicates that this intersection could be expected to operate with a level-of service bordering between satisfactory and unsatisfactory in the near future with the addition of the projected traffic from this proposed development. A review of Tables 15-17 and 15-18 (without development, with development respectively) indicates that this intersection would be expected to operate with an unsatisfactory level-of-service in the 20-year future scenario. In order to mitigate for this significant future deficiency, the traffic study recommends the addition of through lanes and left-turn lanes along Highland Avenue; however, the length of the SR 99 structures crossing over Highland Avenue constrains the total number of lanes along this segment of Highland Avenue to the number that exists today. Although there have been various ideas as to how to maximize the number of lanes that could be accommodated under the structures, none of the ideas presented appear to be feasible. Therefore, Caltrans concludes that the proposed project would result in stop-and-go operation with severe delays and heavy congestion. Traffic volume will be limited by the maximum discharge rate of each phase. Continuous backup in varying degrees will occur on all approaches. Where downstream capacity is restrictive, congestion will impede the orderly discharge of traffic through the intersection.

The traffic study failed to analyze the proposed development's impact to the SR 43 intersection at Rose Avenue. As previously indicated, previous traffic studies have already identified the need for improvements to this intersection in order to accommodate future demand. These improvements include the placement of signal controls and a southbound to westbound right-turn lane. The estimated cost for this improvement is \$433,000 (\$260/trip). Based on the traffic volumes generated from the proposed project taken from Intersection 9 of Figure 15-15 of the traffic study, it is projected that the proposed project would generate 195 trips that would impact this intersection during the evening peak travel periods. Therefore, this proposed development's proportional fair share is calculated to be \$50,700 for the projected future improvements to this intersection. Upon this amount being made a mitigation measure for this project, the applicant will need to enter into a "Traffic Mitigation Agreement" with Caltrans.

Caltrans has long indicated our concerns at the SR 99/Floral Avenue interchange. The interchange is at capacity and can no longer accommodate additional development, especially of the magnitude of this project, along the west side of the freeway. The intersections on which Caltrans commented would likely operate at a somewhat acceptable service for the next several years; however this project alone causes these same intersections to fail at opening day. It is understood that the City of Selma is bisected by SR 99 and there are minimal opportunities for crossing the freeway from east to west. Land use decisions such as this, as well as previous land use decisions resulting in much of the residential traffic east of SR 99 attempting to reach commercial destination west of the freeway, will cause significant congestion. Caltrans is

Mr. Greg Martin
October 28, 2009
Page 4

concerned that continuance of this land use planning pattern will not only result in significant congestion and delay, but potentially have a negative impact on safety and emergency response time.

In our comments dated July 14, 2009, Caltrans indicated that it was recognized that improving the SR 99/Floral Avenue interchange may not be initially feasible due to cost. However, we also pointed out that there needs to be some sort of strategy in place for the interchange to be addressed in the future. It was further recommended that the traffic study analyze improvements to the local road system as alternatives to alleviate operational and potential safety concerns at the interchange. To date, it does not seem that this concept has been thoroughly analyzed. Caltrans sees this as a potentially viable alternative since we recognize that both ultimate and interim improvements to the interchange will be extremely difficult and expensive due geometric constraints.

It is Caltrans desire for the City to be successful in its future planning and economic endeavors. However, we have significant concerns on how land use decisions such as this will impact both the State and City's circulation systems. Therefore, we wish to continue to work cooperatively with the City in attempting to address these issues. If you have any questions, please contact me at (559) 445-5868.

Sincerely,



MICHAEL NAVARRO
Office of Transportation Planning
District 06

Enclosures

DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS – M.S.#40

1120 N STREET

P. O. BOX 942874

SACRAMENTO, CA 94274-0001

PHONE (916) 654-4959

FAX (916) 653-9531

TTY 711

Flex your power!
Be energy efficient!

OCT 26 2009

October 13, 2009

Mr. Greg Martin
City of Selma
1720 Tucker Street
Selma, CA 93662

Dear Mr. Martin:

City of Selma's Draft Environmental Impact Report for the Rockwell Pond Commercial Project;
SCH# 2007061098

The California Department of Transportation (Caltrans), Division of Aeronautics (Division), reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA). The Division has technical expertise in the areas of airport operations safety, noise, and airport land use compatibility. We are a funding agency for airport projects and we have permit authority for public-use and special-use airports and heliports.

The proposal is for a regional shopping center on a 94-acre site.

The project site is located approximately 2,000 feet southeast of the Selma Airport. As shown in Figure 9-1 of the Draft Environmental Impact Report, the southwestern corner of the project site, which includes Shops 2-5, Pads A-C, and possibly the Gas Station, is within the Inner Approach Zone as designated in the Fresno County Airport Land Use Compatibility Plan. The remainder of the site is within an area designated as the Horizontal Zone.

The proposal should be submitted to the Fresno County Airport Land Use Commission (ALUC) for a consistency determination. The proposal should also be coordinated with Selma Airport staff to ensure that the proposal will be compatible with future as well as existing airport operations.

California Public Utilities Code Section 21659 prohibits structural hazards near airports. Depending on structural heights and in accordance with Federal Aviation Regulation, Part 77 "Objects Affecting Navigable Airspace" a Notice of Proposed Construction or Alteration (Form 7460-1) may be required by the Federal Aviation Administration (FAA). Form 7460-1 is available on-line at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp> and should be submitted electronically to the FAA.

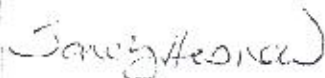
The protection of airports from incompatible land use encroachment is vital to California's economic future. Selma Airport is an economic asset that should be protected through effective airport land use compatibility planning and awareness. Although the need for compatible and safe land uses near airports is both a local and State issue, airport staff, airport land use commissions and airport land use compatibility plans are key to protecting an airport and the people residing and working in the vicinity of an airport. Consideration given to the issue of compatible land uses in the vicinity of an airport should help to relieve future conflicts between airports and their neighbors.

Mr. Greg Martin
October 13, 2009
Page 2

These comments reflect the areas of concern to the Division of Aeronautics with respect to airport-related noise, safety, and regional land use planning issues. We advise you to contact our District 6 office concerning surface transportation issues.

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-5314 or by email at sandy.hesnard@dot.ca.gov.

Sincerely,



SANDY HESNARD
Aviation Environmental Specialist

c: State Clearinghouse, Fresno County ALUC, Selma Airport

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION

DISTRICT 6
1352 WEST OLIVE AVENUE
P.O. BOX 12616
FRESNO, CA 93778-2616
PHONE (559) 445-5868
FAX (559) 488-4088
TTY (559) 488-4066



*Flex your power!
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July 14, 2009

2131-IGR/CEQA
6-FRE-99-6.512+/-
ROCKWELL POND SPECIFIC PLAN
DRAFT TIS

Mr. DB Heusser, City Manager
City of Selma
1710 Tucker Street
Selma, CA 93662

Dear Mr. Heusser:

We have completed our review of the draft Traffic Impact Study (TIS) that would be developed in two phases. The project would ultimately consist of 993,439 square feet of commercial/retail plus a hotel and gas station. The project is located along the north side of Floral Avenue, west of State Route (SR) 99. Caltrans has the following comments:

Caltrans previous comments dated August 6th 2007 continue to be valid. A copy of those comments are enclosed.

A review of Tables 1, 2, 3, 4, 5, and 6 indicates that the calculated project trips are considered satisfactory.

A comparison of the traffic volumes from Figures 21, 22, 23 and 24 (intersections 3, 4, 5 and 9) indicate that the study is projecting little or no increase in several of the movements between the years 2015 and 2030. It appears that the volumes from both of these figures include traffic volumes from Phases 1 and 2. It seems unreasonable to project that there would be little or no increase in volume over a period of 15 years. Therefore these projections should be confirmed and/or justified.

It appears that the intersections were analyzed as isolated intersections. The Synchro Reports in the appendix indicates that the control type used was "Actuated-Uncoordinated". This would be misleading in it would result in a more favorable LOS outcome then if it was analyzed correctly as a coordinated system.

The City is well aware of the concerns Caltrans has expressed in regard to the SR 99/Floral Avenue interchange. We have long indicated that this interchange is at capacity and can not

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Mr. DB Heusser
July 14, 2009
Page 2

handle additional development, especially a project of this magnitude. Short of reconstructing the interchange, operational improvements to the interchange are difficult due to the geometric constraints resulting from the configuration of the three SR 99 freeway structures crossing over Floral Avenue. Much of the congestion resulting at the SR 99/Floral Avenue interchange can be attributed to previous land use decisions resulting in much of the residential traffic east of SR 99 attempting to reach commercial destinations west of the freeway. This is further compounded by the City's circulation system which has inadequate east-west access across SR 99.

Caltrans recognizes that improving the SR 99/Floral interchange may not be initially feasible due to cost. However, it is also recognized that there needs to be some strategy in place as to how this interchange will be addressed in the future. Over the past years, we have had discussions with the City and traffic consultants in terms of interim improvements to help address operations at this location. However, these interim solutions would be difficult and expensive as well. One alternative that has been touched upon, yet not thoroughly analyzed, are improvements to the local road system to help alleviate operational concerns at the interchange. This may be a viable alternative that Caltrans feels is deserving of further discussion with the City and traffic consultant. This would require additional analysis to take place in a revised version of the TIS. The TIS should take a broader look at some of the planning issues we have discussed to insure it becomes a sustainable document as part of the forthcoming EIR.

Caltrans understands the importance of projects such as this to the City of Selma and it is Caltrans desire for the City to be successful. Therefore, it is recommended that further discussion with the City and the project's traffic consultant take place. Caltrans values the cooperative working relationship that has been established with the City and looks forward to it continuing. If you have any questions, please contact me at (559) 445-5868.

Sincerely,



MICHAEL NAVARRO
Office of Transportation Planning
District 06

Enclosure

August 6, 2007

2131-IGR/CEQA
6-FRE-99-6.512+/-
NOP/DEIR
ROCKWELL POND SPECIFIC PLAN
SCH 2007061098

Mr. Michael Gaston
City of Selma
Community Development Department
1710 Tucker Street
Selma, CA 93662

Dear Mr. Gaston:

We have completed our review of the Notice of Preparation to prepare a Draft Environmental Impact Report (DEIR) for the proposed development of a 229-acre site located along the western side of State Route (SR) 99 and bounded by Floral Avenue on the south and Dewolf Avenue on the west. The site is currently designated and zoned for agricultural and open space uses under the Fresno County General Plan. The site would need to be annexed and rezoned by the City of Selma in order to accommodate 1,053,853 sq.ft. of regional commercial uses, 430,000 sq.ft. of light industrial and business-park uses, and 60 to 120 units of residential housing. Caltrans has the following comments:

Previous traffic studies have already identified the need for improvements to the SR 99 northbound off-ramp to Floral/SR43 (add 2 lanes), the SR 99 southbound on-ramp from Floral/SR43 (left-turn from SB 43 to SB on-ramp), and the SR 43 intersection at Rose Avenue (signals and SB right-turn lane). Therefore, it is recommended that the traffic study should confirm the need for these and other improvements. The study should also identify the site's impacts to these facilities.

A recent operational analysis of the SR 99 ramp intersections at Floral/SR43 concluded that all of these intersections currently operate with a satisfactory level-of-service. It also concluded that all of these intersections would continue to operate with a satisfactory level-of-service given the projected future traffic volumes. However, the operational analysis did not appear to have adequately analyzed the queues. Due to this lack of a queue analysis, the traffic study did not identify the congestion that is commonly understood to exist at this interchange. The westbound to southbound left-turn lane at the intersection of the SR 99 southbound off-ramp to Floral appears to have inadequate storage and deceleration length to accommodate current and projected

"Caltrans improves mobility across California"

Mr. Michael Gaston
August 6, 2007
Page 2

future left-turning volumes. The eastbound to northbound left-turn lane at the intersection of Floral and Highland Avenues also appears to have inadequate storage and deceleration length to accommodate current and projected future left-turning volumes. Due to the inadequate lengths of these left-turn lanes, the left-turn queues at these locations will bleed over and block the through movements and thus result in congestion. Nevertheless, it is currently not possible to lengthen these left-turn lanes due to the geometric constraints resulting from the configuration of the three SR 99 freeway structures crossing over Floral Avenue. In order to accommodate the lengthening of these left-turn lanes and other possible widening of this segment of Floral, the three freeway-structures would need to be completely reconstructed. An extreme alternative that would eliminate the congestion caused by the left-turn queue backup would be to eliminate and prohibit these two left-turn movements. However, the elimination of these two left-turn lanes could obviously have a negative impact to some private developments. The City may be able to mitigate some of the impact by reconfiguring some of the local roadway network to create alternate pathways to serve those developments that were negatively impacted. Additionally, a review of the projected future traffic volumes at the intersection of the SR 99 northbound off-ramp to Floral confirms the need for a northbound to eastbound right-turn lane. Therefore, it is recommended that the traffic study should analyze these queues and project the resulting effects on the off-ramps and the freeway mainline.

The southbound to eastbound left-turn lane from southbound Highland Avenue to the SR 99 southbound on-ramp appears to have inadequate storage and deceleration length to accommodate current and projected future left-turning volumes. Due to the inadequate length of this left-turn lane, the left-turn queues at this location will bleed over and block the southbound through movements and thus result in congestion. Nevertheless, it is currently not possible to lengthen this left-turn lane due to the geometric constraint resulting from the configuration of the southbound SR 99 freeway structure crossing over Highland Avenue. In order to accommodate the lengthening of this left-turn lane, the freeway structure would need to be completely reconstructed. Therefore, it is recommended that the traffic study should analyze this queue and project the resulting effects onto the off-ramps and the freeway mainline.

Please send a response to our comments prior to staff's recommendations to the Planning Commission and the City Council. If you have any questions, please contact me at (559) 445-5868.

Sincerely,



MICHAEL NAVARRO
Office of Transportation Planning
District 06

C: SCH

Letter G

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3290



OCT 26 2009

October 22, 2009

Greg Martin
City of Selma
1710 Tucker Street
Selma, CA 93662

Re: Notice of Completion, Draft environmental Impact Report (DEIR)
Rockwell Pond Commercial Project
SCH# 2007061098

Dear Mr. Martin:

As the state agency responsible for rail safety within California, the California Public Utilities Commission (CPUC or Commission) recommends that development projects proposed near rail corridors be planned with the safety of these corridors in mind. New developments and improvements to existing facilities may increase vehicular traffic volumes, not only on streets and at intersections, but also at at-grade highway-rail crossings. In addition, projects may increase pedestrian traffic at crossings, and elsewhere along rail corridor rights-of-way. Working with CPUC staff early in project planning will help project proponents, agency staff, and other reviewers to identify potential project impacts and appropriate mitigation measures, and thereby improve the safety of motorists, pedestrians, railroad personnel, and railroad passengers.

This 973,100 square foot commercial shopping center on 94 acres has the potential to increase vehicular and pedestrian traffic in the vicinity, especially at the Floral Avenue (CPUC # 001B-219.90) at-grade railroad crossing.

Please provide the queuing analysis within the DEIR that addresses this crossing and mitigation measures to address the impacts of this project, so we may complete our review.

Thank you for your consideration of these comments. If you have any questions in this matter, please contact me at (415) 713-0092 or email at ms2@cpuc.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads 'Moses Stites'.

Moses Stites
Rail Corridor Safety Specialist
Consumer Protection and Safety Division
Rail Transit and Crossings Branch
515 L Street, Suite 1119
Sacramento, CA 95814



*Pacific Gas and
Electric Company*

Letter H

Kyle Patten
Land Agent
650 O Street, Bldg 23
Fresno, CA 93760
Land Services

Phone: 559-263-5167
E-Mail: kcp@pg&e.com

September 15, 2009

City of Selma
Community Development Department
1710 Tucker Street
Selma, CA 93662
Attn: Mr. Greg Martin

Dear Mr. Greg Martin,

We have reviewed DEIR for Rockwell Pond Commercial Project and have the following comments. PG&E's records show no Gas or Electric transmission facilities in the project area.

To promote the safe and reliable maintenance and operation of utility facilities, the California Public Utilities Commission (CPUC) has mandated specific clearance requirements between utility facilities and surrounding objects or construction activities. To ensure compliance with these standards, project proponents should coordinate with PG&E early in the development of their project plans. Any proposed development plans should provide for unrestricted utility access and prevent easement encroachments that might impair the safe and reliable maintenance and operation of PG&E's facilities.

Some examples of activities that could have an impact upon our facilities include permanent/temporary changes in grade under our facilities; construction of structures within or adjacent to PG&E's easements; and planting of certain types of vegetation under our electric facilities.

Developers will be responsible for the costs associated with the relocation of existing PG&E facilities to accommodate their proposed development. Because facility relocation's require long lead times and are not always feasible, developers should be encouraged to consult with PG&E as early in their planning stages as possible.

Expansion of distribution and transmission lines and related facilities are a necessary consequence of growth and development. In addition to adding new distribution feeders, the range of electric system improvements needed to accommodate growth may include upgrading existing substation and transmission line equipment, expanding existing substations to their ultimate buildout capacity, and building new substations and interconnecting transmission lines. Comparable upgrades or additions needed to accommodate additional load on the gas system could include facilities such as regulator stations, odorizer stations, valve lots, distribution and transmission lines.

We would also like to note that continued development consistent with your General Plans will have a cumulative impact on PG&E's gas and electric systems and may require on-site and off-site additions and improvements to the facilities which supply these services. Because utility facilities are operated as an integrated system, the presence of an existing gas or electric transmission or distribution facility does not necessarily mean the facility has capacity to connect new loads.

We also encourage the City of Selma to include information about the issue of electric and magnetic fields (EMF) in the Selma Specific Plan. It is PG&E's policy to share information and educate people about the issue of EMF.

Electric and Magnetic Fields (EMF) exist wherever there is electricity – in appliances, homes, schools and offices, and in power lines. There is no scientific consensus on the actual health effects of EMF exposure, but it is an issue of public concern. If you have questions about EMF, please contact Mr. Michael Herz, EMF Program Consultant, at (925) 866-5202.

PG&E remains committed to working with the City of Selma to provide timely, reliable and cost effective gas and electric service. Please contact me at 263-5167 if you have any questions regarding our comments. We would also appreciate being copied on future correspondence regarding this development.

Sincerely,



Kyle Patten
Land Agent



San Joaquin Valley AIR POLLUTION CONTROL DISTRICT

Letter I



November 23, 2009

Greg Martin
City of Selma
Community Development Department
1710 Tucker Street
Selma, CA 93662

Project: Rockwell Pond Commercial Project – City of Selma

District CEQA Reference No: 20090712

Dear Mr. Martin:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above consisting of the development of an approximately 971,000 sq ft commercial center on a 94-acre parcel, located on the north side of Floral Ave west of State Route 99, in Selma, CA. The District offers the following comments:

1. The Rockwell Pond Commercial Project itself will not have an impact on air quality. However, future development within the area will contribute to the overall decline in air quality due to increased traffic and ongoing operational emissions. New development may require further environmental review and mitigation. The District makes the following recommendations regarding future development:

A. Accurate quantification of health risks and operational emissions requires detailed site specific information, e.g. type of emission source, proximity of the source to sensitive receptors, and trip generation information. The required level of detail is typically not available until project specific approvals are being granted. Thus the District recommends that potential health risks be further reviewed when approving future projects, including those that would be exempt from CEQA requirements. Specific consideration should be given when approving projects that could expose sensitive receptors to toxic air contaminants (TACs). If the analysis indicates that TACs are a concern, the District recommends that a Health Risk Assessment (HRA) be performed. If an HRA is to be performed, it is recommended that the project proponent contact the District to review the proposed modeling approach. If there are questions regarding health risk assessments, please contact Mr. Leland Villalvazo, Supervising Air Quality Specialist, at lramodeler@valleyair.org.

Served Southern

From the San Joaquin Valley Air Pollution Control District

Northern Region
4800 Interstate 5
Modesto, CA 95204-5172
Tel: (209) 561-8400 Fax: (209) 561-8475

Central Region (Main Office)
1401 S. Northland Avenue
Fresno, CA 93711-1764
Tel: (209) 236-4800 Fax: (209) 236-8061

Southern Region
1400 West 10th
Bakersfield, CA 93304-0001
Tel: (805) 384-2600 Fax: (805) 384-2601

www.valleyair.org

www.health.valleyair.org

Additional information on TACs can be found online by visiting the District's website at http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm.

- B. Construction Emissions – The EIR concludes that construction emissions will have a potentially significant impact on air quality but with mitigation these impacts from construction exhaust would be reduced to a less than significant impact. In order to conclude that the construction exhaust emissions would be less than significant, mitigation measures reducing construction exhaust emissions must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines §15126.4, subd.(a)(2)). Feasible mitigation of construction exhaust emission includes use of construction equipment powered by engines meeting, at a minimum, Tier II emission standards, as set forth in §2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 Code of Federal Regulations. The District recommends incorporating, as a condition of project approval, a requirement that off-road construction equipment used on site achieve fleet average emissions equal to or less than the Tier II emissions standard of 4.8 NOx g/hp-hr. This can be achieved through any combination of uncontrolled engines and engines complying with Tier II and above engine standards.
- C. Individual development projects would be subject to District Rule 9510 (Indirect Source Review) if upon full build-out the project would include or exceed any one of the following:
- 50 dwelling units
 - 2,000 square feet of commercial space
 - 25,000 square feet of light industrial space
 - 100,000 square feet of heavy industrial space,
 - 20,000 square feet of medical office space,
 - 39,000 square feet of general office space, or
 - 9,000 square feet of educational space; or
 - 10,000 square feet of government space, or
 - 20,000 square feet of recreational space; or
 - 9,000 square feet of space not identified above


District Rule 9510 is intended to mitigate a project's impact on air quality through project design elements or by payments of applicable off-site mitigation fees. Any applicant subject to District Rule 9510 is required to submit an Air Impact Assessment (AIA) application to the District no later than applying for final discretionary approval, and to pay any applicable off-site mitigation fees before issuance of the first building permit. If approval of the subject project constitutes the last discretionary approval by your agency, the District recommends that demonstration of compliance with District Rule 9510, including payment of all applicable fees before issuance of the first building permit, be made a condition of project approval. Information about how to comply with District Rule 9510 can be found online at: <http://www.valleyair.org/ISR/ISRHome.htm>.

- D. Individual development projects may also be subject to the following District rules: Regulation VIII (Fugitive PM10 Prohibitions), Rule 4102 (Nursance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).
- E. The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm.
2. The General Plan is the blueprint for future growth and provides guidance for the community's development. The District is currently designated as extreme non-attainment of the federal national ambient air quality standard for ozone and non-attainment for PM2.5. Given the size of the project, it is reasonable to conclude that mobile source emissions resulting from growth and development would have significant impacts on air quality. To reduce the project related impacts on air quality the General Plan should include design standards that reduce vehicle miles traveled (VMT). VMT can be reduced through encouragement of mixed-use development, walkable communities, etc. Recommended design elements can be found on the District's website at <http://www.valleyair.org/ISR/ISROnSiteMeasures.htm>.
 3. AB 170 (Reyes) requires cities and counties in the San Joaquin Valley to include an air quality element or air quality implementation strategies in their general plans. The District prepared the Air Quality Guidelines for General Plans (AQGGP) to assist in addressing this new requirement. The city is required to forward the air quality element or its equivalent to the District for review. The AQGGP can be found online at <http://www.valleyair.org/transportation/Entire-AQGGP.pdf>.
 4. Referral documents for new development projects should include a project summary detailing, at a minimum, the land use designation, project size, and proximity to sensitive receptors and existing emission sources.
 5. The District recommends that a copy of the District's comments be provided to the project proponent.

If you have any questions or require further information, please call Resa Garcia at (559) 230-5935.

Sincerely

David Warner
Director of Permit Services



Arnaud Marjollet
Permit Services Manager

DW:rg

Comments Due:

10-26-2009

Project #:

20090712

Review Type

☒ CLOA☐ NEPA☐ Public or Publicly-owned land

Note: NEPA & public interest requires comment.

Project Type

- ☐ Residential - # DU
- ☒ Commercial Area *GH, at 2*
- ☐ Office Area
- ☐ Industrial Area
- ☐ Educational Area
- ☐ Government Area
- ☐ Recreational Area
- ☐ Transportation Corridor
- ☐ Public Works (Waste / Utilities / Roads)
- ☐ Dairy / Poultry / Other Confined Animals
- ☐ Agriculture
- ☐ Other

Document Type

- ☐ Consultation - EC / LA
- ☐ Initial Study / Environmental Checklist - IS
- ☐ Notice of Preparation/Intent - NOP / NOI
- ☐ Negative Declaration - ND / MND / FONSI / DND / LND / DMND / FDMND
- ☒ Environmental Impact Report/Statement - EIR, EIS, EIS, FEIR, FEIS, EIR / FEIS
- ☐ Use Permit - CUP / CCUP / UCUP / UP / PSP
- ☐ Site Plan Review - SPR / LAR / LPR / PD / LARA
- ☐ Map Review - PM / LPM / PRE / SRI / VML / LMS / LMA / LHM / VPM - VSM / LOP / VLSM / VTT / MIN / MX
- ☐ Zoning - CZ / PZ / PZL / PZV / R / RB / ZC / ZOC / ZR
- ☐ Plan Amendment - A / GA / SPA / GMP / SPA
- ☐ State/Federal Funds - COSG / HOML / HUD
- ☐ Annexation - ANX
- ☐ Variance - V / VAR / DV
- ☐ Lot Line Adjustment - LA
- ☐ Time Extension - TE
- ☐ General Plan Update

Type of Comment Needed

- ☒ Specific Comments
- ☐ Template
- ☐ CDBG / HOME / HUD
- ☐ DOGGR
- ☐ Early Consultation
- ☐ Future Development
- ☐ General / Area Plan
- ☐ Kings County Dairy Facility
- ☐ LACo
- ☐ Less than Significant - Nonresidential
- ☐ Less than Significant - Residential
- ☐ No Additional Comments
- ☐ Not Enough Info
- ☐ Notice of Preparation
- ☐ Time Extension, Now ISR
- ☐ No Comment - no database entry, Blank / on Duty person

Previous Comments / Referrals / Notes



CITY OF SELMA

1710 TUCKER STREET • SELMA, CALIFORNIA 93662

NOTICE OF AVAILABILITY/COMPLETION OF A DRAFT ENVIRONMENTAL IMPACT REPORT

Received

SEP 10 2009

SMUAPCD

Rockwell Pond Commercial Project – City of Selma

Pursuant to the California Environmental Quality Act (CEQA), notice is hereby given that a Draft Environmental Impact Report (Draft EIR) has been prepared for the proposed Rockwell Pond Commercial Project in the City of Selma. The project consists of the development of an approximate 971,000 square foot commercial center on a 94-acre parcel on the north side of Floral Avenue west of State Route 99. The Project site would require annexation to the City.

Implementation of the Project would result in potentially significant effects to water supply (quality and increased consumption), increased traffic and circulation impacts, degradation of air quality and loss of agricultural land. The Project site is not contained on hazardous material lists enumerated under Section 65962.5 of the California Government Code.

Your comments on the content and adequacy of the Draft EIR are invited. The Draft EIR is available for review during normal business hours at the City of Selma Community Development Department, 1710 Tucker Street, Selma, CA 93662.

Written comments should be received beginning on September 9, 2009 through no later than 5:00 p.m. on October 26, 2009, at which time the public review period for the Draft EIR will close.

After the close of the comment period, a Final EIR will be prepared to include all comments received on the Draft EIR and the City's response to the comments. Please submit your comments by the Draft EIR to:

Greg Martin, AICP
Associate Planner
City of Selma Community Development Department
1710 Tucker Street
Selma, California 93662
Phone: (559) 891-2209, Ext. 3116

Project files will be maintained at the above address and may be viewed by appointment during regular business hours.

COMMUNITY DEVELOPMENT DEPARTMENT • (559) 891-2208/2209 • FAX: (559) 891-2207

Letter J

DEPOTS
CLAVIS
KINGSBURG
REEDLEY
BANDER
WESTSIDE

Consolidated Mosquito Abatement District

DISTRICT OFFICE
2425 FLORAL AVENUE
MAIL P.O. BOX 278
SELMA, CALIFORNIA 95362
(559) 885-1067
(559) 885-9839
FAX (559) 886-6125

October 5, 2009

OCT 05 2009

Greg Martin, AICP
Associate Planner
City of Selma Community Development Department
1710 Tucker Street
Selma, CA 95362

Re: Draft Environmental Impact Report – Rockwell Pond Commercial Project – City of Selma

Dear Mr. Martin:

The Consolidated Mosquito Abatement District (District) is a local government agency charged by the California Health and Safety Code with the responsibility to protect the public, in our jurisdiction, from nuisance and disease caused by mosquitoes. The above referenced project is in the District's jurisdiction, and we are concerned with the water retention elements of the development, specifically flood control and surface water runoff (nuisance water). Public Health issues, such as preventing habitat production for disease carrying mosquitoes, need to be addressed when stormwater retention basins are designed and constructed.

On July 20, 2007 the District responded to the Notice of Preparation to Prepare an Environmental Impact Report for the City of Selma "Rockwell Pond Specific Plan." In the District's letter of response (enclosed) we stated the potentially significant adverse affects to the public which are caused by mosquitoes. We also provided mosquito control mitigation measures for the flood control/nuisance water retention component of the project that would minimize or preclude mosquito development.

After reviewing the Draft EIR for the Project, dated September 9, 2009, I was unable to find any reference to District concerns and recommendations relating to mosquito control. The District responds to Initial Studies, Notices of Preparation, and Environmental Impact Reports when the project under review involves the storage, conveyance, evaporation or percolation of wastewater, stormwater or surface water runoff, which are all potential mosquito breeding habitats. When District recommendations are incorporated into a project, the public's best interests are served, and the public is protected to the extent possible from mosquitoes and mosquito-borne disease such as West Nile virus. California Health and Safety Code section 2011 (1) encourages participation in the review process by authorizing the District to make recommendations regarding local, state, or federal land use planning and environmental quality processes.

Additionally, in the Hydrology section of the Draft EIR, item 10.4 states "Development south of Rockwell Pond shall discharge all stormwater into on-site basins designed to accommodate up to 44.6 acre feet of runoff (26.6 acre feet for Phase 1 and 18.0 acre feet for Phase 2)." Retention basins are problematic for mosquito control; they provide mosquitoes with significant breeding habitat when low in-flows of nuisance

Community health, comfort and prosperity are promoted by effective, continuous mosquito abatement measures.

water result in the formation of a large shallow pond. Shallow water conditions encourage pond-edge and emergent weed growth such as cattails and tules that both enhance mosquito breeding habitat and complicate basin maintenance efforts. To help illustrate this point, I have included a photo of a basin that exemplifies the negative effects of shallow water in a stormwater basin. The District is not in favor of an on-site retention basin for each phase of the project; we recommend that new developments be required to connect to existing stormwater drainage systems whenever possible. This will prevent the proliferation of numerous small stormwater retention basins that provide mosquitoes with substantial breeding habitat during the summer.

The District strongly recommends that the City of Selma include the following mosquito control mitigation measures in the Final Environmental Impact Report for the Rockwell Pond flood control/nuisance water retention area and for the on-site basins referenced in section 10.4 of the Draft EIR, if constructed.

1. Basins should be constructed and/or managed so that water depths are maintained to a minimum of four feet in order to preclude invasive emergent vegetation such as cattails.
2. If water levels are subject to fluctuation during the summer mosquito breeding season, basins should be constructed with a low flow sump area (see attached diagram). Again, for the purpose of preventing the growth of emergent vegetation, the sump area should be excavated to a minimum depth of four feet below the pond floor. The engineer responsible for the grading and drainage plan for this project should be able to approximate the dimensions for the sump area. The basin floor should also be graded or sloped so as the standing water recedes it will drain into the sump area.
3. Access must be provided. A free and unencumbered access roadway around the entire basin perimeter for pond maintenance and mosquito abatement activities is essential.
4. Basin edges should be well managed and maintained free of excess vegetation that promotes mosquito breeding and hinders District control efforts.

District Manager Steve Mulligan and I are available to meet with Planning Department staff to discuss the District's mosquito control mitigation measures for this Project and to ensure that District recommendations are included in all future projects that have the potential to provide mosquitoes with breeding habitat. Please call me at (559) 896-1085 so that we can arrange a meeting. Thank you for your help and consideration.

Sincerely,

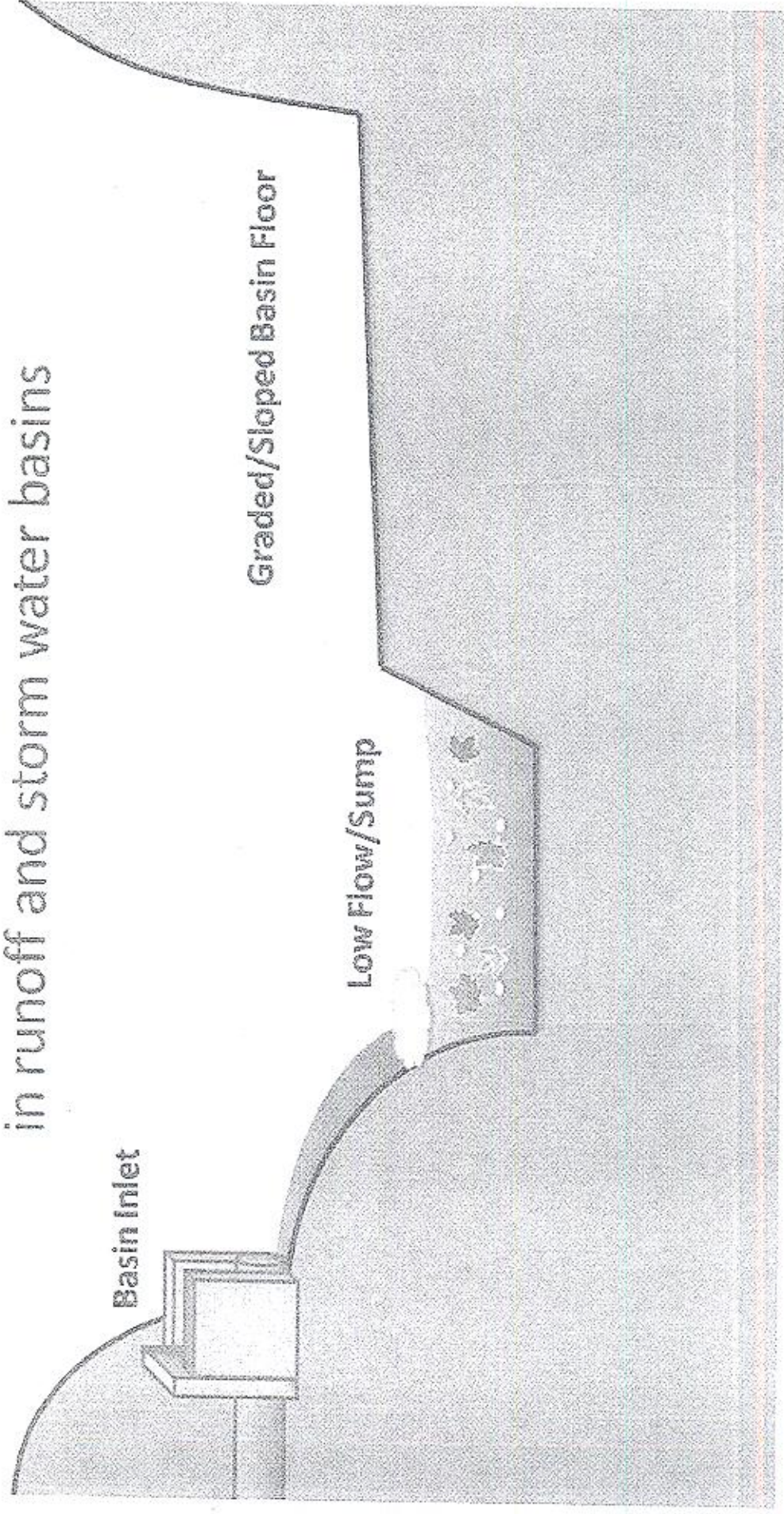


Mark Amorino
Field Supervisor

STORMWATER BASIN DISPLAYING THE NEGATIVE EFFECTS OF SHALLOW WATER



Design criteria to minimize mosquito breeding habitat
in runoff and storm water basins



DEPOTS
COUNTS
EVENING
WEDDED
SANDER
WISKIDE

Consolidated Mosquito Abatement District

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MAIL P.O. BOX 274
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(559) 896-0665
(559) 896-0619
FAX (559) 896-6109

Mr. Michael Gaston, AICP
City of Selma
Community Development Director
1716 Tucker Street
Selma, Ca 95362

July 20, 2007

Re: NOTICE OF PREPARATION (NOP)- City of Selma "*Rockwell Pond Specific Plan*"
EIR Pursuant to the Requirements of the California Environmental Quality Act (CEQA).

Dear Mr. Gaston,

The project site is within the boundaries of the Consolidated Mosquito Abatement District (District), which is responsible for protecting the public from nuisance and disease caused by mosquitoes. The District is concerned with the flood control, and summertime surface water runoff (nuisance water) retention aspect of Rockwell Pond. Immature mosquitoes develop in water habitats and flood control basins are a significant mosquito breeding source.

The NOP states that the Project site incorporates Rockwell Pond which is a flood control and water recharge area owned by the Consolidated Irrigation District (CID); and the Rockwell Pond specific Plan proposes the development of approximately 229 acres adjacent to northwest Selma. Groundwater recharge basins are typically not problematic for mosquito control, because large deep ponds greater than four feet deep usually do not provide mosquitoes with suitable breeding habitat. Currently, the City of Selma's use of the basin for flood control/nuisance water retention is providing mosquitoes with breeding habitat on a small scale. However, the District is concerned with the increased amount of nuisance water (e.g., from lawn and landscape irrigation) which could be a result of the proposed development. Excessive summertime nuisance water runoff into Rockwell Pond will enhance and expand mosquito breeding habitat, unless the flood control/nuisance water retention area is properly designed and managed.

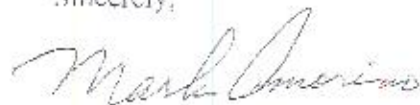
With the expected increase of summertime nuisance water runoff, the District anticipates a corresponding increase in mosquito breeding habitat. The basin floor of Rockwell Pond is irregular and undulating, with many isolated depressions. If water is allowed to meander throughout the basin, filling these depressions, conditions will quickly develop that will promote mosquito production.

Whether or not Rockwell Pond becomes problematic for mosquito control depends on several factors, including; water level, basin floor grade and vegetation management. The District recommends the following measures to mitigate the potential of this pond to produce large numbers of mosquitoes:

1. The pond, or nuisance water retention area, should be constructed and/or managed so that water depths are maintained in excess of four feet to preclude invasive emergent vegetation such as cattails.
2. Access must be provided. A free and unencumbered access roadway around the entire pond perimeter for pond maintenance and mosquito abatement activities is essential.
3. Ponds should be constructed with a low flow area, or sump, if water levels are subject to fluctuation during the summer mosquito breeding season. The low flow area should be located at the pond inlet and excavated to a minimum depth of four feet below the pond floor to preclude growth of emergent vegetation. The pond should be graded to drain into the low flow area.
4. Pond edges should be well managed and maintained free of excess vegetation that promotes mosquito breeding.
5. Ponds should be managed to control excess emergent vegetation to prevent harborage for mosquito breeding and so that mosquito fish and other predators are not inhibited.

In summary: When Rockwell Pond is filled to capacity during the summer and functioning as a groundwater recharge basin, mosquito breeding is minimal and easily controlled. When CID does not have sufficient water supplies to fill the basin, and all summertime inflows to the pond are a result of nuisance water, proper basin design and vegetation management are critical for effective mosquito control.

Sincerely,



Mark Amorino
Source Reduction Specialist



DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2655 • WEBSITE conservation.ca.gov

October 28, 2009

VIA FACSIMILE (559) 898-0338

Mr. Greg Martin, AICP
City of Selma
Community Development Department
1710 Tucker Street
Selma, CA 93662

NOV 02 2009

Dear Mr. Martin:

Subject: Rockwell Pond Commercial Project - SCH# 2007061098

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Draft Environmental Impact Report (DEIR) for the above referenced project. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the proposed project's impacts on agricultural land and resources.

Project Description

The property is located in the City of Selma's Sphere of Influence, south of Rockwell Pond, consisting of about 94 acres of unincorporated land in Fresno County. The project site is described as being in agriculture with a number of related rural residential homes. The site is located within the City of Selma's growth corridor and is proposed to be pre-zoned and annexed into the City of Selma.

The intent is to develop a regional commercial shopping center adjacent to State Route 99 that consists of anchors, shops, a hotel, restaurants, new car sales, and big box retailers. The project is proposed to be completed in two phases. The two phases, when complete, would result in approximately 973,100 sq. ft. of retail uses. The project site is designated Open Space on the Selma General Plan and designated for Agriculture & Open Space uses in the Fresno general plan. The project site is used for agriculture. Land to the west of DeWolf Avenue is in agriculture and Rockwell Pond extends into this area. Land northwest and south of the project site is in agriculture and urban built-up land is located to the east and north of the project site.

Mitigation Measures

The DEIR states, on page 1-4 under 1.6 Significant and Unavoidable Environmental Effects, that "The project would convert Prime Farmland to non-agriculture use. The

project would conflict with existing zoning for agriculture use and has the potential to contribute to a cumulative loss of agriculture on adjacent property..."

The loss of agricultural land represents a permanent reduction in the State's agricultural land resources. As such, the Department recommends the use of permanent agricultural conservation easements on land of at least equal quality and size as partial compensation for the direct loss of agricultural land. If a Williamson Act contract is terminated, or if growth inducing or cumulative agricultural impacts are involved, the Department recommends that this ratio of conservation easements to lost agricultural land be increased. Conservation easements will protect a portion of those remaining land resources and lessen project impacts in accordance with California Environmental Quality Act (CEQA) Guideline §15370. The Department highlights this measure because of its acceptance and use by lead agencies as an appropriate mitigation measure under CEQA and because it follows an established rationale similar to that of wildlife habitat mitigation.

Mitigation via agricultural conservation easements can be implemented by at least two alternative approaches: the outright purchase of easements or the donation of mitigation fees to a local, regional or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural conservation easements. The conversion of agricultural land should be deemed an impact of at least regional significance. Hence, the search for replacement lands should be conducted regionally or statewide, and not limited strictly to lands within the project's surrounding area.

Of course, the use of conservation easements is only one form of mitigation that should be considered. Any other feasible mitigation measures should also be considered.

Comments

Mitigation measures outlined in the DEIR under Mitigation 4.1 (page 4-9) for the project recognize many different approaches for mitigation of the potential loss of agricultural land. We recommend the following revisions to mitigations a through c in the document:

- a) The acquisition of conservation easements on agricultural land located elsewhere in Fresno County on a 2:1 ratio of equal quality farmland to compensate for lost Prime Farmland.
- b) Participation in a "Mitigation Fee" program to offset the impacts of development on agricultural land, ~~if such a program has been implemented by the City of Selma.~~ If land cannot be found regionally then participation in a program outside the region is recommended.
- c) Contribution of required funds to a nonprofit agricultural land trust whose primary purpose is the preservation of agricultural land, ~~if such an organization had been formed at the time development is proposed.~~ either within the County or statewide.

Mr. Greg Martin, AICP
October 28, 2009
Page 3 of 3

The Impact "Conflict with existing zoning for agriculture use, or a Williamson Act contract" (page 4-9) lists the level of significance as "less than significant" impact. The Division disagrees with this finding. The issue is not just whether Williamson Act contracts in the vicinity would be affected, which they have the potential to be as development encroaches more closely to their boundaries (page 4-9), but whether it will "Conflict with existing zoning" as well. Under 4.1 "Environmental Setting" (page 4-1) the project site is described as agriculture with a number of related rural residential homes. The project site is designated Open Space on the Selma General Plan and designated for Agriculture & Open Space uses in the Fresno [County?] general plan. This would indicate that the proposed rezone would be in conflict with existing zoning and therefore result in more of an impact than "Less Than Significant". It is suggested the level of impact be recognized as Significant and that mitigations be added for this section that are similar, if not the same, as the recommended mitigations under 4.1 (above).

Thank you for giving us the opportunity to comment on this DEIR. Please provide this Department with the date of any hearings for this particular action, and any staff reports pertaining to it. If you have questions regarding our comments, or require technical assistance or information on agricultural land conservation, please contact Meri Meraz, Environmental Planner, at 801 K Street, MS 18-01, Sacramento, California 95814, or by phone at (916) 445-9411.

Sincerely,



Dan Otis
Program Manager
Williamson Act Program

cc: State Clearinghouse



Letter L

Fresno Local Agency Formation Commission

October 5, 2009

OCT 06 2009

Mr. Greg Martin, AICP
Associate Planner
City of Selma Community Development Department
1710 Tucker Street
Selma, CA 93662

Dear Mr. Martin:

Subject: *Rockwell Pond Commercial Project Draft EIR*

We have received the City of Selma's request for comments for the Draft Environmental Impact Report (DEIR) prepared for the Rockwell Pond Commercial Project that proposes a two-phase commercial development on approximately 94 acres. We offer the following comments in response to the City's request:

1. The DEIR is correct in stating LAFCo approval will be necessary to annex the affected territory to the City. In conjunction with the annexation to the City, annexation to the Selma-Kingsburg-Fowler County Sanitation District and detachment from the Kings River Conservation District, Consolidated Irrigation District, and the Fresno County Fire Protection District will also be required.
2. Under Section 56001 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Act), the State declares its interest in discouraging urban sprawl as well as preserving open space and prime agricultural lands. As indicated in the DEIR, the affected territory has been identified as including prime agricultural lands.

With respect to how prime agricultural land is defined, the DEIR should consider the definition of "Prime Agricultural Land" as listed within the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This definition differs from the California Department of Conservation's definition of "Prime Farmland" and may be considered to be more inclusive. For LAFCo purposes, the environmental document must consider loss of Prime Agricultural Land as defined by the Act (Government Code Section 56064) below:

"Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, for rating as class I or class II in

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the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated provided that irrigation is feasible.

- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.*
 - (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.*
 - (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a non-bearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.*
 - (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.*
3. The project will utilize groundwater for its needs. As indicated in the DEIR, there has been some discussion between the City of Selma and the Consolidated Irrigation District (CID) concerning impacts to groundwater overdraft within the District's boundaries. The DEIR indicates that water use for this project (with full development of Phases 1 and 2) may be 142 acre-feet per year. A number of mitigation measures are designed to mitigate impacts associated with this use.
- Because LAFCo is charged with the responsibility for assuring that public services and facilities can be properly provided to serve new development, it is important that identified impacts to such facilities (i.e. CID facilities) be fully identified and appropriate mitigation provided. It is recommended, therefore, that CID as an affected agency be given an opportunity to comment upon this EIR.
4. As a point of information, the City's latest "Master Service Plan" on file with LAFCo is dated July 17, 2000. LAFCo Policy Section 402-02-C states:
- "The Master Service Plan shall be reviewed annually and updated as necessary by the staff of the affected city in cooperation with the executive officer of the Commission. Any changes shall be evaluated and approved by the city and Commission."*

Mr. Greg Martin, AICP
City of Selma
Page 3 of 3

In light of development within the City since 2000, as well as this project, at this time it may be appropriate to review and update the City's Master Service Plan, as needed.

We appreciate the opportunity to provide comments for the Draft EIR being prepared for the Rockwell Pond Commercial Project and look forward to receiving a copy of the completed CEQA documentation for further review and comment as appropriate. At such time as a reorganization proposal is submitted to LAFCo, the City should have already approved all General Plan amendments, pre-zoning of the affected territory, and all appropriate entitlement permits. Please contact LAFCo for a complete list of documents required for a complete reorganization application prior to their submittal.

If you have any questions, please contact me at (559) 495-0604

Sincerely,



Darrel Schmidt, Deputy Executive Officer
Fresno Local Agency Formation Commission

Cc: Phil Desatoff, Manager, Consolidated Irrigation District



MCCORMICK
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ATTORNEYS AT LAW

Letter M

October 26, 2009

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Partner
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jreid@mccormickbarstow.com

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VIA EMAIL TO: gregorym@cityofselma.com &
U.S. REGULAR MAIL

Mr. Greg Martin, AICP
City of Selma
Community Development Department
1710 Tucker Street
Selma, CA 93662

RE: Rockwell Pond Commercial Project

Dear Mr. Martin:

The purpose of this letter is to set forth comments on behalf of Selma Development Partners and Cliff Tutelian regarding the Draft EIR for the Rockwell Pond Commercial Project.

We support the proposed development. However, there are several items that we believe the City needs to address regarding the potential impacts and mitigation measures presented in the Draft EIR.

1. Agricultural Resources

First, the EIR's analysis at page 4-7 indicates that the City of Selma ("City") is currently updating its Agricultural Preservation goals and policies. We recommend that the Draft EIR include an inventory of the current proposed changes in the policies for Agricultural Preservation goals reflected in the current draft General Plan Amendment, and an evaluation which confirms that the Project is consistent with each of those policies. The Draft General Plan includes the following proposed policies:

Land Use Element

1 Policy 1.1 The following agricultural land use category identifies land throughout the Planning Area that is intended primarily for agricultural uses. Agriculture (AG) 0 to 0.05 Units Per Gross Acre. This designation provides for agriculture and agriculturally-related uses with a 20-acre minimum lot size, and is generally applied to lands outside of urbanized areas or areas planned for future urbanization. Although lands designated Agriculture are not always under the direct control of the City of Selma, the agricultural designation of these lands is intended to

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express the City's preference that these areas remain in agricultural use and production.

- Policy 1.2 In order to preserve them as a natural resource and provide a buffer between existing and future development in the City and neighboring cities, prime agricultural lands should not be designated for urban development to the extent feasible.
- Policy 1.3 The premature conversion of productive agricultural lands to urban uses is discouraged. Steps to curb conversion of these lands include the use of Williamson Act contracts, Farmland Security Zone contracts, agricultural zoning, purchase/transfer of development rights and "right to farm" covenants.
- Policy 1.7 Require a "right to farm" covenant to be recorded for all development adjacent to productive agricultural lands, in order to provide notice to future owners and protect the farming activities.
- Policy 1.8 New development in the community shall be sequential, and contiguous to existing development, to ensure the orderly extension of municipal services and preservation of a free flowing circulation system.
- Policy 1.9 While the City prefers contiguous urban development, this may not always be feasible or possible given short-term ownership and development constraints. However, leapfrog development greater than ½ mile from existing urban uses shall be discouraged. Such development shall be required to submit an analysis of the fiscal and service impacts the development would have upon the City.
- Policy 1.11 Development of peninsulas of urban development into agricultural lands shall be discouraged.
- Policy 1.95 The City shall maintain a 40,000 population and 70,000 population Urban Development Boundary (UDB) that limits development to within those boundaries until the City's population exceeds the corresponding UDB population. The City shall not develop or annex areas designated as "Reserve" within the Planning Area until additional land is needed.
- Policy 1.100 The City shall discourage leapfrog development (defined as urban development more than ½ mile from existing urban development) and development of peninsulas extending into

agricultural lands to avoid adverse effects on agricultural lands, and to avoid adverse effects on agricultural operations that contribute to premature conversion.

- Policy 1.103 The City shall work with neighboring jurisdictions to prevent development on lands designated Reserve that would create potential inconsistencies with their future annexation into the City of Selma. When the development of lands designated Reserve becomes necessary for further growth of the City, the City will pursue their annexation and place them under a land use designation and zoning district appropriate to their intended use.
- Policy 1.104 The City shall not approve a general plan amendment, pre-zoning or any development entitlement application for reserve areas for a period of at least five years from the adoption of this general plan update.
- Policy 1.105 The City shall not approve a general plan amendment, pre-zoning or any development entitlement application for reserve areas until a minimum of 80 percent of all non-reserve property with the same general designation within the general plan boundaries have been developed or have approved development entitlements.

Open Space, Conservation and Recreation Element

- Policy 5.8 Prime and uniquely productive agricultural land should be conserved through orderly expansion of the City.
- Policy 5.9 To protect human health and safety from potential impacts due to agricultural spraying, dust, and traffic congestion, the City will encourage lower density development adjacent to land planned for long-term agricultural uses.
- Policy 5.10 Agricultural lands which currently produce, or have the potential to produce, specialty crops for which the area is uniquely suited, should be protected from encroachment by urban uses.
- Policy 5.11 Maintain a 20-acre minimum parcel size for agriculturally designated parcels to encourage viable agricultural operation and to prevent parcelization into rural residential or ranchette developments.

Policy 5.12 Work with regional partners/organizations to develop an agricultural land conservancy program. Encourage the application of new agricultural land preservation and conservancy programs outside of the City's SOI.

Next, regarding the impact caused by conversion of farmland to non-agricultural use, we believe that Mitigation measure 4.1 at page 4-8 and 4-9, and cross-referenced in Mitigation measure 4.4 at page 4-10, should be deleted. There is no current policy for the City of Selma that supports use of any mitigation fee programs or any density transfer processes. Nor to the Draft General Plan proposed policies include such a program. Therefore, we do not believe that these can be treated as being effective mitigation measures, because they do not provide any beneficial effect on the loss of farmland. This position is supported by decisions from the local appellate court in an unpublished decision.

2

Specifically, in *Friends of the Kangaroo Rat v. California Department of Corrections*, the Fifth District considered whether the creation of an agricultural easement was appropriate mitigation for farmland lost due to the CDC's proposed development of a prison in Kern County. ((Cal. App. 5 Dist. 2003) 4 Cal. Rptr. 3d. 558 (Not Published).) The court stated that the creation of an agricultural easement did not constitute "mitigation" under Guidelines section 15370 because it would not create new farmland. Rather, at best, it would prevent the future conversion of farmland to nonagricultural use. The court concluded that even if the agricultural easement were a mitigation measure, the CDC was not required "to pay someone to continue farming land that was already being farmed, and which was not the site of any probable future project."

We recommend that rather than the City impose obligations that do not constitute mitigation, the EIR should include language in accordance with the Fifth Court decision confirming that such programs are not effective mitigation. Specifically, that there is no mitigation available to reduce the impact caused by conversion of farmland to non-agricultural use to a less than significant level.

2. Air Quality

3

We are concerned with several issues in the Regulatory Framework section. First, on page 5-8, the 1994 Ozone Attainment Demonstration Plan is discussed. However, we request that this section also include a discussion of the more recently adopted 2007 Ozone Plan that was adopted on April 30, 2007. This plan contains a comprehensive and exhaustive list of regulatory and incentive based measures to reduce emissions of ozone and particulate matter precursors throughout the Valley. Additionally, this plan calls for major advancements in pollution control technologies for mobile and stationary sources of air pollution, and a significant increase in state and federal funding for incentive-based measures to create adequate reductions in emissions to bring the entire Valley into attainment with the federal ozone standard.

This discussion should include reference to the current status of review and approval by the U.S. EPA. Currently, the U.S. EPA has approved the Motor Vehicle Emissions budgets for 2011, 2014 and 2017, but not for 2020 or 2023.

4 Additionally, on page 5-10, the 2008 National air quality standard for Ozone (O_3) for the 8 hour averaging time is incorrectly stated using the 1997 standard of .08 ppm, as opposed to the 2008 standard of .075 ppm. Further, the National standard for $PM_{2.5}$ is incorrectly stated as 65 mg/m^3 . The current standard is 35 mg/m^3 .

Next, we recommend that the EIR include additional information in the discussion in subsection 5.3 at pages 5-20 and 5-21. Specifically, the EIR should refer to the Guidance that OPR issued on June 19, 2008, and described those. Here is a potential description.

On June 19, 2008, OPR published a technical advisory on CEQA and Climate Change. The advisory was a precursor to OPR's later issuance of amendments that it recommended to the Resources Agency to the CEQA Guidelines pursuant to SB 97. In the interim, the technical advisory "offers informal guidance regarding the steps lead agencies should take to address climate change in their CEQA documents" (OPR, 2008).

5 The technical advisory notes that neither CEQA nor the CEQA Guidelines prescribe thresholds of significance or particular methodologies for performing an impact analysis. "This is left to lead agency judgment and discretion, based upon factual data and guidance from regulatory agencies and other sources where available and applicable" (OPR, 2008). OPR recommends that "the global nature of climate change warrants investigation of a statewide threshold of significance for GHG emissions" (OPR, 2008). Until such a standard is established, OPR advises that each lead agency should develop its own approach to performing an analysis for projects that generate GHG emissions (OPR, 2008).

OPR recommends a process for evaluating GHG emissions. First, agencies should determine whether GHG emissions may be generated by a Proposed Project, and if so, quantify or estimate the emissions by type or source. Calculation, modeling or estimation of GHG emissions should include the emissions associated with vehicular traffic, energy consumption, water usage and construction activities (OPR, 2008).

Agencies should then assess whether the emissions are "cumulatively considerable" even though a project's GHG emissions may be individually limited. OPR states: "Although climate change is ultimately a cumulative impact, not every individual project that emits

GHGs must necessarily be found to contribute to a significant cumulative impact on the environment" (OPR, 2008). Individual lead agencies may undertake a project-by-project analysis, consistent with available guidance and current CEQA practice (OPR, 2008).

Finally, if the lead agency determines emissions are a cumulatively considerable contribution to a significant cumulative impact, the lead agency must investigate and implement ways to mitigate the emissions (OPR, 2008). OPR states: "Mitigation measures will vary with the type of project being contemplated, but may include alternative project designs or locations that conserve energy and water, measures that reduce VMT by fossil-fueled vehicles, measures that contribute to established regional or programmatic mitigation strategies, and measures that sequester carbon to offset the emissions from the project" (OPR, 2008). OPR concludes that "A lead agency is not responsible for wholly eliminating all GHG emissions from a project; the CEQA standard is to mitigate to a level that is "less than significant" (OPR, 2008). The technical advisory includes a list of mitigation measures that can be applied on a project-by-project basis.

In addition, we believe that the EIR should reference the Proposed Amendments to the CEQA Guidelines proposed by OPR and which are in the process of being adopted by the Resources Agency. Further, relevant excerpts of the draft regulations should be set forth. These specifically include Section 15064.4 (methods of determining significance of impacts from Greenhouse Gas Emissions) and Section 15126.4(c) (Mitigation Measures related to Greenhouse Gas Emissions) and Section 15130(f) (Discussion of Cumulative Impacts), Section 15183.5 (Tiering and Streamlining Analysis of Greenhouse Gas Emissions) and Section 15364.5 (definition of Greenhouse Gas).

The EIR should then further note that there is no present Greenhouse Gas Reduction Plan in place, and evaluate the extent to which proposed elements of such a Plan are included in the current draft General Plan update.

3. Hazards and Hazardous Materials

In subsection 9.3 at page 9-6, the final paragraph of this page notes that some portions of the site are within the inner approach zones of the Selma Aerodrome, which is apparently in violation of the safety standards that apply under the Airports Land Use Policy Plan. It is suggested that a future site plan modification to comply with the safety criteria could be conducted. We recommend a confirmation in the EIR that the site plan's proposed uses within the inner approach zone does not violate the 10 persons per acre safety standard is violated.

4. Hydrology

8 In subsection 10.2 at pages 10-14, 10-15, 10-17 and 10-19, the EIR (and presumably the Water Supply Assessment) states that the ground water is reliable supply for 20 years only if there are measures taken to reduce withdrawals and/or increase recharge to the groundwater basin. At page 10-15 it is stated that Cal Water plans to work with the City of Selma and the CID to develop plans for additional facilities. Unfortunately, it is not clear that either of those circumstances presently exists. Similar issues are described on page 10-17. There is furthermore a statement on page 10-19 that without a recharge agreement between CID and Selma, there will be significant impacts to groundwater.

The mitigation strategy, however, is not to rely upon such an agreement, but to instead fund projects CID recommends as being funded by such a proposed agreement. For that reason, we recommend that the language in the provisions that focus on the need for an agreement should be revised. The EIR should confirm that the goals of the CID agreement, and the mitigations benefits it seeks to obtain, is accomplished at a project level by mandating mitigations that provide direct funding for beneficial projects that the agreement would otherwise seek to fund.

5. Land Use and Planning

9 The EIR indicates in subsection 11.3, page 11-2 that the amendments must be reviewed by the ALUP and that if the amendment is found inconsistent there may be an override at the election of the local governing body. We recommend that the fact of a potential inability to conform to the ALUP be construed as a potentially significant impact (if in fact it does violate the ALUP standards). Further, suggested mitigation measures in that circumstance would be to obtain an override that is permissible in a compliance with State Planning Law. It should be expressly noted that such an option will avoid a conflict with a policy of the agency with jurisdiction over the Project because in this instance the City of Selma has jurisdiction of the project to override the ALUP policy.

6. Public Services

10 First, in subsection 14.3.1 at page 14-3, the EIR says that there is a significant impact if the Fire Department response times exceed six minutes, and states that this is a possibility. However, the EIR in Section 15 and page 15-52 states that the Project will not result in inadequate emergency access. This apparent inconsistency should be addressed and resolved. It may be that the roadway improvements detailed in the EIR were not previously taken into account by the Fire Department when the initial response time issues were evaluated. Alternatively, the six minute response time may not have been fully evaluated as the relevant standard of significance.

11 Next, in subsection 14.9.1 at page 14-10, Mitigation measure 14.11 references "per lot assessment fees" for new wells in accordance with CPUC rules. We believe

Comment Letter
Re: Rockwell EIR
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that this should reference water supply facilities fees assessed by Cal Water in accordance with applicable CPUC rate regulations.

8. Traffic

As noted above, at Page 15-52, the EIR states that the Project will not result in inadequate emergency access. However, this appears to be inconsistent with comments made by the Fire Department. We recommend that the City re-evaluate and resolve this inconsistency.

Thank you for the opportunity to comment on this important project.

Sincerely,
McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP


Jeffrey M. Reid



Letter N

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October 30, 2009

Mr. Greg Martin, AICP
City of Selma
Development Department
1710 Tucker Street
Selma, CA 93662

SUBJECT: Draft EIR - Rockwell Pond Commercial Project

Mr. Martin,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Rockwell Pond Commercial Project. Please note that comments presented herein are supplemental to comments provided July 23, 2007 by Consolidated Irrigation District (CID) in response to the Notice of Preparation for this project.

In reviewing the subject document, CID agrees with, and supports, the statement identifying the need to reduce withdrawals and/or increase recharge to the groundwater basin in order to assure adequate long term water supplies. This conclusion is supported by data developed by CID, the Upper Kings Basin Water Forum (now the Upper Kings Basin Integrated Regional Water Management Authority), and the United States Geological Survey. These data can be found within the following documents:

1. Consolidated Irrigation District Groundwater Management Plan, GEI Consultants Inc., March 2009
2. Consolidated Irrigation District Urban Impacts Study, Summers Engineering Inc., July 2007
3. Technical Memorandum on the potential regional and local groundwater effects of urban growth in the CID service area, WRIME Inc., July 2007
Consolidated Irrigation District Urban Impacts White Paper, Summers Engineering Inc., November 2007
4. Upper Kings Basin Integrated Regional Water Management Plan, WRIME Inc., July 2007 (available at Kings River Conservation District website www.krcd.org)

5. **Kings Basin Integrated Groundwater Surface Water Model**, WRIME Inc., November 2007 (available at Kings River Conservation District website www.krcd.org)
6. **Professional Paper 1766, Groundwater Availability of the Central Valley Aquifer, California**, U.S. Geological Survey, 2009 (available at www.ca.water.usgs.gov/projects/centralvalley)

Please note that documents 1 through 4 above have previously been provided to the City in relation to other projects, but we will be happy to provide additional copies upon request. Documents 5 and 6, as noted, are available on the identified websites. I specifically request that all listed documents be made part of the administrative record for this project

For a variety of reasons, the DEIR falls short of compliance with the California Environmental Quality Act ("CEQA").¹ The subject DEIR presents the following concerns:

A. Impacts to Hydrology

Measures proposed to mitigate impacts on groundwater quantity include payment by the developer of an annual assessment to CID equal to that in the current draft of the proposed new cooperative agreement between CID and the cities, and funding and development of recharge projects identified in CID studies (specifically documents 2 and 4 listed above). CID's current policy is that it will not enter into arrangements with a developer as guarantor for implementation of proposed mitigation measures and related long term maintenance costs. This is because the developer may terminate association with the project any time after it is approved and has no authority to impose, and maintain, the necessary fees. For these reasons, CID will only work with a city, or other public land use agency, to implement the mitigation measures. In the absence of such an arrangement, the mitigation measures presented in the subject DEIR cannot be implemented. In addition, the recharge projects identified as mitigation have not been subject to the studies necessary to assess their full feasibility. Based on these facts the proposed mitigation measures cannot be used to meet the standards for compliance with the California Environmental Quality Act.

B. Project Description

¹ Public Resources Code § 2100 *et seq.*

- 3 The project area appears to include a portion of Rockwell Pond. Rockwell Pond is owned by CID and should be removed from any description and/or depiction of the subject project.

C. Impacts to Agriculture

- 4 The EIR finds that the Project will result in conversion of 94 acres of prime farmland into other land uses, and concludes that this is a "significant and unavoidable" impact. The EIR adopts one mitigation measure in the form of a completely unenforceable menu of options that might be used to mitigate for impacts to agriculture. (See DEIR, pp. 4-8 through 4-9.) Mitigation Measure 4.1 does not contain any criteria or performance standards, and instead defers development of any specifics to the future.
- Under CEQA, a lead agency cannot defer development of the specifics of a mitigation measure to the future. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670 [holding that provision in EIR that allowed specifics of mitigation for biological impacts to be determined after future study violated CEQA where there were no specific criteria or standards of performance].) "CEQA's demand for meaningful information is not satisfied by simply stating information will be provided in the future." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 431 (internal quotation omitted).)
- Specific performance criteria and standards must be included in an enforceable mitigation measure for conversion of prime agricultural lands.

D. Global Climate Change

The DEIR does a fair job of describing the phenomenon of global warming and its serious repercussions for the City, California and the Nation. (DEIR, pp. 5-18 through 5-21.) As the DEIR notes, greenhouse gases in the atmosphere trap heat near the Earth's surface. Unnaturally elevated atmospheric concentrations of these gases, emitted from human activities, cause average temperatures to increase, with adverse impacts on humans and the environment.²

² See also Intergovernmental Panel on Climate Change, Fourth Assessment Report (IPCC 4th) (2007) Working Group (WG) I, Frequently Asked Question 2.1, *How Do Human Activities Contribute to Climate Change and How Do They Compare with Natural Influences?* http://ipcc-wg1.ucar.edu/wg1/FAQ/wg1_faq-2.1.html.

CEQA requires that “[e]ach public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.” (Pub. Res. Code § 21002.1 (b).) This requirement is the “core of an EIR.” (*Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52 Cal.3d 553, 564-65.) Global climate change is an “effect on the environment” under CEQA, and an individual project’s incremental contribution to global warming can be cumulatively considerable. (See Pub. Res. Code, § 21083.05(a); see also Sen. Rules Comm., Off. Of Sen. Floor Analyses, Analysis of Sen. Bill No. 97 (2007-2008 Reg. Sess.) Aug. 22, 2007.)

5

As the Attorney General’s Office has noted in comments on various General Plan updates around the State, there are many effective measures that a local government can include in its general plan. Because of the size of this development project, it is similar to a general plan in the sense that it provides the overall development template for a significant amount of commercial development. A few of the examples used by the Attorney General are as follows: a local agency can require water conservation measures, green building standards, building energy efficiency standards that exceed the State minimum, and land use designations that facilitate more compact development.³ In the last category, the California Energy Commission (“CEC”) has noted that better land use decisions are essential. According to the CEC, if we do not address growth in vehicle miles traveled (“VMT”), it will completely overwhelm the other advances that the State is making to control emissions and lower the carbon content of fuel.⁴ But, as the California Energy Commission has found, “[l]and use choices that result in lower energy use and VMT reductions are possible and examples are beginning to emerge across the state.”⁵ The City has failed to include sufficient data and analysis of VMT in the DEIR.

1. The DEIR does not adequately identify all existing greenhouse gas emissions

An EIR must provide an accurate depiction of existing environmental conditions. (CEQA Guidelines § 15125(a).) “Before the impacts of a project can be assessed and mitigation measures considered, an EIR must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined.” (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 952.)

³ See the Attorney General’s fact sheet, available at http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf.

⁴ California Energy Commission, *The Role of Land Use in Meeting California’s Energy and Climate Change Goals*, Final Staff Report (August 2007), at pp. 10, 18.

⁵ *Id.* at p. 10; see also *California Energy Commission, 2007 Integrated Energy Policy Report*, Committee Final Report (November 2007), Chapter 8, Mitigating Energy Needs With Smart Growth, at p. 261.

- 6 The DEIR does not even attempt to identify the baseline, existing greenhouse gas emissions in the air basin. (See DEIR, p. 5-18.) However, a lead agency must make reasonably conscientious efforts to collect additional data or make further inquiries of environmental or regulatory agencies having expertise in the matter. (*Berkeley Keep Jets Over the Bay Committee v. Board of Port Comm'rs* (2001) 91 Cal.App.4th 1344, 1370.) If an inventory does not yet exist, the City is not excused from determining the existing greenhouse gas emissions in the air basin simply because an inventory does not yet exist.

2. The DEIR does not properly mitigate the emissions resulting from the Project

- 7 The DEIR fails to analyze and require an adequate suite of feasible mitigation for the projected greenhouse gas emissions. Mitigation Measures 5.18, 5.20 and 5.22 are to be implemented unless they are "infeasible." There is no discussion of what the standard will be for feasibility. Accordingly, these measures offer no certain mitigation of the impacts.

- 8 Mitigation Measure 5.19 is hortatory, and merely encourages certain behavior. It is insufficient under CEQA, as mitigation measures must be enforceable.

- 9 There are no mitigation measures designed to reduce VMT, or otherwise address the tremendous GHG emissions that will result from traffic both during construction and upon completion of the project.

E. Wastewater Discharge

- 10 There is no discussion of impacts resulting from discharge of wastewater to the regional wastewater treatment facility. The additional discharge will be direct result of the proposed project, and so must be analyzed in the project EIR.

Courts have consistently held that an EIR must examine a project's *potential* to impact the environment, even if the development may not ultimately materialize. (*Bozung v. Local Agency Formation Comm'n* (1975) 13 Cal.3d 263, 279 and 282.) Thus, the DEIR must evaluate the level of additional discharge that will result from full build-out of the proposed project.

F. Cumulative Impacts

- 11 There is no discussion of the cumulative impacts of other projects in the area including the recently circulated DEIR for the City of Selma General Plan Update and the City of Parlier DEIR for expansion of its sphere of influence.

Under CEQA, an EIR must identify and evaluate cumulative impacts. (Pub. Resources Code §§ 21100, 21083(b); and *Citizens to Preserve the Ojai v. County of Ventura*, *supra*, 176 Cal.App.3d at 428.) "The cumulative impacts from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related, past, present, and reasonably foreseeable probable future projects." (Guidelines § 15355(b).) Cumulative impacts are "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts....[they] can result from individually *minor* but collectively significant projects taking place over a period of time." (Guidelines § 15355(b); *accord EPIC v. Johnson* (1975) 170 Cal.App.3d 604, 625.) And such incremental effects must be analyzed whether they fall on-site or off-site. (E.g., *Friends of the Old Trees v. Department of Forestry & Fire Protection* (1997) 52 Cal.App.4th 1383, 1396.)

- 12 | The DEIR fails to take into account the expansion of the City spheres for Selma and Parlier.

G. Concerns Specific To CID

- 13 | On page 10-7, 3rd paragraph, it is stated that the City of Selma has proposed an alternative to the cooperative agreement that would have the City purchase additional surface water and pay CID a fee to convey the water to city owned recharge facilities. It is also stated that CID has not responded to the proposal. I am not aware of CID receiving any such formal proposal.

- 14 | On page 10-9, figures used to estimate project water use do not include those for the hotel. A hotel represents a potential high water use and must therefore be included and incorporated into water use calculations throughout the DEIR.

- 15 | On page 10-16, 4th paragraph, it is stated that Cal Water has initiated discussions with the City and CID on conducting a feasibility study to evaluate a program to increase surface water recharge to the groundwater basin within the Selma area. I am not aware of any such discussions.

- 16 | On page 10-18, last paragraph, it is suggested that the appropriate number for net project water consumption be set at 1.51 acre feet per acre consistent with the CID White Paper. This gives an annual net groundwater consumption of 142 acre feet. However, demand in the Selma area is calculated to be 316 acre feet per year (see page 10-10) based on water use factors for commercial activities (note that this number does not include the proposed hotel). The 316 acre foot number should be used. This is because the White Paper figure represents the net regional consumption incorporating discharge at the SKF wastewater treatment facility, while the groundwater pumping impacts in the local Selma

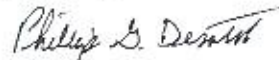
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area cannot count offsetting recharge of wastewater at the SKF facility because it lies several miles to the south.

I trust this information is helpful, however, should you have any questions, or need additional information, please call me at (559) 896-1661.

Sincerely,

A handwritten signature in dark ink, appearing to read "Phillip G. Desatoff". The signature is written in a cursive style with a prominent initial "P".

Phillip G. Desatoff
General Manager

PGD: mm

Letter O

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File No: 10/44

October 26, 2009

VIA ELECTRONIC MAIL & FACSIMILE
gregm@cityofselma.com; (559) 898-0338

Mr. Greg Martin, AICP
City of Selma
Community Development Department
1710 Tucker Street
Selma, CA 93662

RE: Comments on Draft Environmental Impact Report; City of Selma "Rockwell Pond
Commercial Project; SCH No. 2007061098."

Dear Mr. Martin:

This office represents the Fresno County Fire Protection District ("District"). This communication comments on the Draft Environmental Impact Report ("DEIR") for the City of Selma ("City") "Rockwell Pond Commercial Project" ("Project").

I. INTRODUCTION AND SUMMARY OF COMMENTS

The District encompasses approximately 2,655 square miles and serves a population of more than 220,000 citizens. It is bounded on the east by the Sierra Nevada Mountains and on the west by the Coastal Mountain Range and includes the incorporated boundaries of the City as well as territory included within the City's sphere of influence.

The District believes the City has not complied with the California Environmental Quality Act ("CEQA") (Public Resources Code §§ 21000 *et seq.*) because the DEIR does not address the physical changes to the environment that may be caused by the Project's economic impacts. Specifically, DEIR does not provide an assessment of Project's impact to the District's fire protection services for the property that is proposed to be detached and remaining portions of the District. Moreover, the DEIR does not provide an assessment of the Project's impacts on the

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City's general fund and, thus, the City's ability to continue to provide public services to its residents at the current level of services.

II. CEQA PRIMARY PURPOSES

CEQA has two primary purposes which are not satisfied by the DEIR. First, CEQA is designed to inform decision-makers and the public about the potential, significant effects of a project and inform the public of the reasons why a project is approved despite having significant environmental effects.¹ Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring feasible alternatives or mitigation measures.²

III. INADEQUATE PROJECT DESCRIPTION

An EIR's project description must contain a general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals, if any, and supporting public facilities.³ An accurate, stable, and finite project description is a prerequisite to an informative and legally sufficient EIR.⁴

2

The DEIR's Project description fails to include a description of the State and City's economic condition and, thus, fails to address physical changes to the environment that may be caused by Project's economic effects undercutting public review. Although CEQA generally does not require an analysis of the economic and social effects of a project, physical changes to the environment caused by a project's economic and social effects must be analyzed if those effects are potentially significant.⁵ Economic effects resulting from a project may be found to cause a significant physical impact that must be analyzed in the EIR.⁶

Here, physical changes to the environment, in the form of reduced public services as well as related impacts on facilities and equipment, caused by the Project's economic effects on the physical environment could be potentially significant given the State and City fiscal condition. California's cities, counties and special districts face a combined loss of \$2 billion in property

¹ See 14 Cal. Code Regs. (hereinafter "CEQA Guidelines") §15002(a)(1) and (4); *Citizens of Gilets Valley v. Board of Supervisors* (1990) 52 Cal.3d 535.

² See CEQA Guidelines § 15002(a)(2) and (3); *Laurel Heights Improvements Ass'n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400; *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1354.

³ CEQA Guidelines § 15124 (c).

⁴ *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192.

⁵ See CEQA Guidelines §15064(e); *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1215-16 (holding that EIR improperly dismissed possibility that large shopping center could drive other retailers out of business as economic effect, when urban decay and other blightlike conditions could result.)

⁶ See *El Dorado Union High Sch. Dist. V. City of Placerville* (1983) 144 Cal.App.3d 123.

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tax revenue to the state this year alone. In July of this year, Governor Arnold Schwarzenegger again declared a State fiscal emergency and, with support from two thirds of the Legislature, suspended Proposition 1A ("Prop 1A") permitting the State to borrow eight percent of property taxes that otherwise would have gone to local government, including the City. The general fund of cities across the State has been severely impacted by the loss of tax revenue over the past few years due to the decline in real estate values and the resulting reduction in the share of one percent of property tax, including the City's property tax. This reduction directly impacts the level of City services.

Despite the State and City's fiscal emergency, the DEIR Project description fails to describe the City's economic condition to adequately assess the Project economic effects on the physical environment and inform the public of such effects. Specifically, the Project description fails to describe the Project's economic effect to the District's fire protection services for the property that is proposed to be detached from the District and remaining portions of the District.

An accurate project description is imperative for an intelligent evaluation of the potential environmental effects of a proposed activity.⁷ Accordingly, the Project's DEIR description fails to comply with the CEQA requirement that a project description be accurate for an informative and legally sufficient DEIR. Without a project description that includes the City's fiscal condition on which to base the EIR's analysis, CEQA's objectives of public disclosure and informed environmental decision-making are thwarted.

IV. INADEQUATE ENVIRONMENTAL SETTING

An EIR must describe the environmental setting for a proposed project to establish the baseline that a lead agency can use to determine whether project impacts are significant.⁸ Establishment of the baseline is critical to a meaningful assessment of the environmental impacts of a project because the significance of environmental impacts cannot be determined without setting this baseline.⁹ The EIR must describe the "physical environmental conditions in the vicinity of the project" as they exist when the notice of preparation ("NOP") for the EIR is published. This description of physical environmental conditions must include both a local and regional perspective.¹⁰

3

The DEIR fails to adequately describe the Project's environmental setting because it fails to identify the public service improvements that currently provide public services to property that will be annexed through the LAFCO approval process. For example, the DEIR fails to identify the District as the current public agency that provides fire protection for the Project property that

⁷ *San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730.

⁸ CEQA Guidelines § 15125.

⁹ *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 199.

¹⁰ CEQA Guidelines § 15125(b).

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City of Selma
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will be annexed and presumably detached from the District. Nor does the DEIR identify the law enforcement agency that currently provides services to the property to be annexed for the Project. Stated another way, the DEIR fails to provide an adequate environmental setting to adequately address the impacts that the movement of the City limits (annexation and assumed detachment) will have on District's public improvements, and other agencies' public improvements and, thus, impact on the physical environment.

Because the DEIR fails to adequately describe the environmental setting by failing to identify the public improvements that currently serve the Project property to be annexed and detached from the District and, thus, set a baseline, the DEIR cannot provide meaningful assessment of the environmental impacts of the Project's economic effects. At minimum, the DEIR's environmental setting sections should be revised to incorporate the existing public improvements in the area, and how the Project would impact public services.

V. INADEQUATE DESCRIPTION OF IMPACTS ON THE ENVIRONMENT

The adequacy of an EIR's project description is closely linked to the adequacy of the EIR's analysis of the project's environmental impacts. An EIR must contain a project description that is sufficient to allow an adequate evaluation of the project's environmental impacts.¹¹

4 Given that the Project description fails to include a description of the City's economic condition in light of the Prop 1A, the Project description is insufficient to determine whether there will be significant physical changes to the environment caused by the Project's economic effects. For example, without a proper project description, the DEIR fails to properly analyze the impacts, resulting from the loss of property taxes, to the District's fire protection services for the property that is proposed to be detached from the District and remaining portions of the District.

5 Additionally, the inadequate description of the environmental setting tainted the impact analysis rendering it legally inadequate.¹² The DEIR fails to adequately describe the environmental setting for the Project because it fails to identify the public improvements that currently serve the Project property that is proposed to be annexed. Accordingly, the DEIR fails to establish a baseline that is critical to a meaningful assessment of the environmental impacts the Project will have on the District, and other public service agencies, that currently serve the Project property to be annexed.

¹¹ *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 27.

¹² *San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal. App.4th 713.

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Because the City's fire department is proposed to be the sole provider of fire services to the Project area, the City, as the lead agency, is required by law to perform an adequate environmental review which takes into account, describes and analyzes the impacts that the proposed changes to the City's boundaries will have on the District's fire protection services for the property that is proposed to be detached from the District and impact on fire protection services in the remaining portions of the District.¹³ Accordingly, the DEIR should be revised to incorporate such an analysis.

VI. INADEQUATE PROJECT ALTERNATIVES

7

The DEIR also fails to describe a reasonable range of Project alternatives. An EIR must describe a reasonable range of alternatives to the proposed project, or its location, that would feasibly accomplish most of the project's basic objectives while reducing or avoiding any of its significant effects. An EIR must contain sufficient information about each alternative to permit an evaluation of the relative merits of the alternatives and the project.¹⁴ The analysis must contain concrete information about each alternative sufficient to allow a fact-based comparison of the alternatives with the project.¹⁵ An EIR's analysis of alternatives must be specific enough to allow informed decision making and public participation.¹⁶ Generally, courts review potential alternatives to determine whether they: 1) can substantially reduce significant environmental impacts; 2) can attain most of the basis project objectives; 3) are potentially feasible and 4) are reasonable and realistic.¹⁷

Economic viability is a factor that may be considered when assessing the feasibility of alternatives. In *Citizens of Goleta Valley v. Board of Supervisors*, the court noted the agency's conclusion that an alternative site was infeasible was supported by an economic analysis that showed that the site could not support a version of the project large enough to be economically viable.¹⁸ The reference to economic viability in the CEQA Guidelines relating to alternatives underscores the general principal that economic considerations are an important component of determining feasibility of alternatives under CEQA.¹⁹

The DEIR fails to describe a reasonable range of alternatives because, as discussed above, it fails to provide an adequate project description, environmental setting, and adequate

6
 (cont.)

¹³ The issue is not simply one of whether the City is able to provide municipal services to the Project area better or more efficiently than other local government agencies. There is no question that such decisions are within the province of LAFCO. Rather, the initial issue is whether the environmental impacts of any proposed revisions to existing land uses and their intensity have been adequately reviewed, analyzed, and disclosed to the public.

¹⁴ CEQA Guidelines §15126.6(a).

¹⁵ See CEQA Guidelines §15126.6(d).

¹⁶ *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 406.

¹⁷ CEQA Guidelines §15126.6 (c).

¹⁸ (1990) 52 Cal.3d 553, 575 n7.

¹⁹ See CEQA Guidelines §15354.

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description of the impacts on the environment. As a result of these deficiencies, the DEIR's discussion of alternatives does not include sufficient information about each alternative to allow evaluation, analysis, and comparison with the Project.²⁰ For example, in considering the feasibility of each alternative, the DEIR fails to address the economic viability of each of the project alternatives. The DEIR does not provide an economic analysis for each of the project alternatives to adequately assess the potential impacts the Project's economic effects will have on the physical environment. Without an economic analysis to determine the feasibility of each project alternative, the DEIR fails to allow informed decision making and public participation. Specifically, until the DEIR's Project description adequately describes the Project by addressing potential impacts to the District's fire protection services for the property that is proposed to be detached and remaining portions of the District, the public is not informed whether the Project can be located at a another City location to avoid or reduce negative effects on these public services.

VII. INADEQUATE MITIGATION MEASURES

A fundamental purpose of an EIR is to identify ways in which a proposed project's significant environmental impacts can be mitigated or avoided.²¹ Accordingly, an EIR must describe feasible mitigation measures that can minimize the project's significant environmental effects.²² Mitigation measures should be feasible, practical and effective.²³

8 As explained above, the DEIR fails to provide an adequate project description that describes the Project's economic effects on the District's fire protection services for the property that is proposed to be detached from the District and remaining portions of the District, an adequate description of the environmental setting, and an adequate description of the Project's impacts on the environment. Therefore, the DEIR also fails to provide adequate mitigation measures to mitigate the Project's environmental impacts.

VIII. CONCLUSION

Given that the DEIR has wholly ignored CEQA's directives concerning project description, environmental setting, description of impacts on the environment, project alternatives, and mitigation measures by failing to address the State and City's fiscal crisis and Project's economic effect on the District's fire protection services for the property that is proposed to be detached from the District and remaining portions of the District, the District believes that unless substantial additional meaningful analysis is available to the City's decision

²⁰ CEQA Guidelines §15126.6 (d).

²¹ Public Resources Code §21002.1(a), 21061.

²² CEQA Guidelines §§ 15121(a), 15126(a).

²³ *Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 365.

Mr. Greg Martin, AICP
City of Selma
Community Development Department
October 26, 2009
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makers, the DEIR does not comply with CEQA. Pursuant to Public Resources Section 21177, the District reserves the right to comment further upon the DEIR.

Very truly yours,


William D. Ross

WDR:IB

cc: Keith A. Larkin, District Chief
Fresno County Fire Protection District

EXHIBIT B

Consolidated Irrigation District Draft Cooperative Agreement And Supportive Materials



KAHN, SOARES & CONWAY, LLP

ATTORNEYS AT LAW

January 21, 2009

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Fresno, CA 93720-2928

Re: New Cooperative Agreement by and between Consolidated Irrigation
District and the Cities;
Our File No. 11,141.88

Gentlemen:

Enclosed please find a Memorandum from Donald Pauley and me to the City Managers and City Attorneys of the Cities of Sanger, Parlier, Fowler and Selma. Attached to the Memorandum is the final draft of the new Cooperative Agreement ("New Agreement"). The New Agreement includes revisions which address issues raised by the Cities at the September 17, 2008 meeting. These revisions included new exhibits to the Cooperative Agreement which clearly set forth the methodology used to calculate the Net Ground Water Pumped by each City and the amounts to be contributed by the Cities under the New Agreement to fund ground water recharge projects. The exhibits also identify the methodology used to calculate the storm drainage fee to be paid by each respective City for use of the CID facilities to receive the City's storm water discharge.

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Please review the enclosed New Agreement and if you have any questions, please do not hesitate to contact Don Pauley or me. If there is a need for negotiations with CID relative to the terms and conditions of the enclosed New Agreement, please contact Doug Jensen directly.

Thank you for your continued cooperation and assistance with regards to this matter.

Sincerely,

KAHN, SOARES & CONWAY, LLP

A handwritten signature in black ink, appearing to read "Michael J. Noland", written over the printed name.

Michael J. Noland

MJN:jla
Enclosure

cc: Donald F. Pauley, City Manager, City of Kingsburg
Douglas B. Jensen, Baker Manock & Jensen, PC
Richard Ballantyne, Executive Director, Fresno LAFCO
Kenneth Price, Fresno LAFCO Legal Counsel

MEMORANDUM

TO: City Managers and City Attorneys for the Cities of Sanger, Parlier, Fowler and Selma

FROM: Donald F. Pauley, City Manager and Michael J. Noland, City Attorney for the City of Kingsburg

RE: Final Draft of New Cooperative Agreement between Consolidated Irrigation District and Cities.

DATE: January 21, 2009

At the meeting held on September 17, 2008, by and between the Cities and Consolidated Irrigation District ("CID"), the Cities raised a number of issues relative to the terms and conditions of the draft new Cooperative Agreement ("New Agreement"). As a result of the comments made at the September 17, 2008 meeting, the representatives for CID and the representatives for the Cities (collectively "Negotiating Group") met on several occasions to negotiate revised language for the New Agreement including, without limitation, creating a new exhibit to the New Agreement which specifically identifies the methodologies used to calculate the financial contributions to be made by each City under the New Agreement. Attached is a copy of the final draft of the New Agreement.

The Negotiating Group believes the attached final draft of the New Agreement addresses all of the issues raised at the September 17, 2008 meeting. The exhibit to the final draft of the New Agreement entitled "Calculation of Net Ground Water Pump" clearly identifies the methodology used for calculation of net ground water pumped by each City and the amounts to be contributed by the Cities under the New Agreement to fund ground water recharge projects. The exhibit also identifies the methodology used to calculate the storm drainage fee to be paid by respective Cities for the use of the CID facilities to receive a city's storm water discharge.

The Negotiating Group believes that the terms and conditions of the final draft New Agreement establish a process by which CID and the Cities can work together to address the current ground water overdraft conditions that affect CID and the Cities. The Negotiating Group believes that only through the joint efforts of CID and the Cities as identified in the final draft of the New Agreement will the current ground water overdraft conditions be properly and adequately addressed and hopefully resolved.

The Negotiating Group wishes to thank the CID Board of Directors and the City Managers, City Staffs and City Attorneys of each respective City for their efforts relative to the review of prior draft agreements and the comments provided to the Negotiating Group. The Negotiating Group hopes that the Board of Directors of CID and the City

Memorandum

Page 2 of 2

Councils of each City will approve the attached final draft of the New Agreement in its current form and agree to execute the same.

The Negotiating Group has completed its work with the submission of the attached final draft of the New Agreement to the Cities and the Board of Directors of CID. However, should you have any questions regarding any of the provisions of the attached final draft of the New Agreement and or the exhibit attached thereto, please do not hesitate to contact Donald F. Pauley or Michael J. Noland. If your City believes that further negotiations with CID are required, please contact CID directly.

DRAFT

January 15, 2009

2:26 PM

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MEDIATION
PROPOSED
COOPERATIVE AGREEMENT
BETWEEN
CONSOLIDATED IRRIGATION DISTRICT
AND
THE CITY OF _____

THIS AGREEMENT is made and entered into as of this ____ day of ____, 2009 ("Effective Date") by and between CONSOLIDATED IRRIGATION DISTRICT, a California irrigation district, ("District") and the CITY OF _____, a municipal corporation, ("City").

WITNESSETH:

WHEREAS, more than twenty years ago, City and District entered into one or more Cooperative Agreements regarding use of District facilities located in or adjacent to City for stormwater disposal and groundwater recharge purposes, as well as addressing matters involving annexation of newly developed land to City and detachment thereof from District; and

WHEREAS, those Cooperative Agreements have expired and City and District desire to enter into a new Cooperative Agreement formulated pursuant to a facilitation process in which the Cities of Fowler, Selma, Kingsburg, Parlier and Sanger (the "Five Cities") and the District have participated at the request of the Fresno County Local Agency Formation Commission ("Fresno County LAFCo"); and

WHEREAS, past and current urban development projects in and adjacent to City (i) have affected the groundwater levels underlying both City and District, (ii) use portions of District canals, ditches, basins, ponds, drains and headgates ("District Facilities") for the disposal of

municipal stormwater, and (iii) impacted the operation and maintenance of District Facilities; and

WHEREAS, City desires to continue urban development while complying with the requirements of the California Environmental Quality Act ("CEQA") by addressing the impacts of that development on District Facilities and groundwater levels underlying City and District; and

WHEREAS, City [itself or through an arrangement with [] "Company] provides potable water to its residents; and

WHEREAS, City and District desire to work together to address impacts of urban development; and

WHEREAS, City desires to mitigate possible negative environmental impacts on groundwater resources in accordance with the provisions of CEQA that may result from new urban development projects in the City; and

WHEREAS, The imposition of requirements established in consultation between the City and District regarding new urban development projects that affect the operation and maintenance of District Facilities as set forth in this Agreement will mitigate negative impacts of such development projects on District facilities; and

WHEREAS, rather than construct and maintain new urban drainage facilities, City desires, subject to the terms and conditions of this Agreement, to continue to discharge urban drainage water generated from previously developed land and improvements in City ("Stormwater") for groundwater recharge purposes into District Facilities located within or adjacent to City, and District and City desire to limit or prohibit discharge of urban drainage

water from new development projects into District Facilities by using, instead, recharge facilities of City; and

WHEREAS, both City and District desire that land being developed to urban use continue to be annexed to City and simultaneously detached from District; and

WHEREAS, District desires to maintain its groundwater recharge efforts at historic levels depending on the availability of water from the Kings River in addition to and notwithstanding the activities and projects being funded by City hereunder; and

WHEREAS, it is the District's intent to enter into a new separate cooperative agreement with each of the Five Cities.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. Recitals. The recitals stated above are true and correct and are a substantive part of this Agreement.

2. Groundwater Extraction and Contributions by City to Groundwater Management and Replenishment.

(a) City will operate groundwater wells located within the boundaries of City, equipped with meters that accurately measure the instantaneous flow and accumulated volume annually of water extracted by those wells ("Annual Groundwater Extraction").

(b) City will mitigate groundwater overdraft in the City and District by instituting a process (as set forth below) for the payment of contributions by City into a groundwater management and replenishment fund ("Groundwater Fund") for purposes of implementing groundwater replenishment methodologies including but not limited to (i) the purchase and import of water into the District for groundwater recharge purposes, (ii) the expansion of existing facilities to increase groundwater recharge, (iii) the construction of new

facilities to be used for additional groundwater recharge (individually, "Recharge Project" and collectively, "Recharge Projects") and (iv) the use of District Facilities to receive, convey and recharge urban drainage from land within the boundaries of City.

(c) In April 2009 and February of each calendar year thereafter during the term hereof, City shall report to District with respect to the immediately preceding calendar year (i) the Annual Groundwater Extraction in acre-feet of groundwater extracted by City as described in 2(a) above using a copy of the complete report thereof filed by City with the California Department of Health, (ii) the net number of acre-feet of treated wastewater effluent generated by City and recharged into groundwater all as set forth in Exhibit "A" attached hereto and by this reference incorporated herein ("Net Groundwater Use") and (iii) the number of acres of land within the City from which urban drainage would flow into District Facilities during the immediately preceding calendar year (except acres that drain into a basin connected to District Facilities that is available for groundwater recharge by either City or District in accordance with a mutual agreement to that effect) as shown on Exhibit "B" attached hereto and by this reference incorporated herein ("Drained Acres").

(d) In May 2009 and March of each calendar year thereafter during the term hereof, District shall calculate the contribution of City ("Total Annual Groundwater Management Contribution") by multiplying the Net Groundwater Use by the sum of One Hundred Thirty Dollars and No Cents (\$130.00) per acre-foot (the "Annual Groundwater Management Contribution Rate"). The Annual Groundwater Management Contribution Rate, which will be paid into the Groundwater Fund, (i) shall be used to pay for Projects, and the City's share of the Administrative Fee and the District Facilities Fee, all as defined below, and (ii) takes into account the activities of City and District that assist in groundwater recharge and the detachment

from District of land annexed to City for urban uses. Commencing with the fifth anniversary of the Effective Date and each anniversary thereafter (each a "Contribution Adjustment Date"), the Annual Groundwater Management Contribution Rate shall be subject to an annual increase as a result of an increase of the Consumer Price Index ("CPI"). The basis for computing each CPI increase shall be the Index. All Urban Consumers San Francisco-Oakland-San Jose Area, All Items (1982-84=100) as published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). As of each Contribution Adjustment Date, the Annual Groundwater Management Contribution Rate for the forthcoming year shall be calculated pursuant to this provision to be equal to the Annual Groundwater Management Contribution Rate in effect during the immediately preceding twelve month period ("Prior Year") multiplied by a fraction, the numerator of which shall be equal to the Index published for the first calendar month of the current year, and the denominator of which shall be equal to the Base Index (as defined below). The "Base Index" shall be the Index for the month of the Effective Date (or, if the Index is not published for such month, then the Index published for the month closest, but prior to the Effective Date). For the sixth and each subsequent calculation pursuant to this Section 2(d), the "Base Index" shall be redefined as the Index published for the first calendar month of the current year for which the Annual Groundwater Management Contribution Rate has last been calculated pursuant to this Section 2(d). The Index for the first calendar month of any given year, if the Index is not published for such month, shall be the Index published for the month closest, but prior to the first calendar month of such year. If publication of the Index by any governmental or private agency is discontinued or if it is so modified that it does not accurately reflect the changes in consumer prices from one year to another, then the parties shall use such other index as is then generally recognized and accepted for similar determination of changes in consumer

prices. If the Index is revised, it shall be converted in accordance with the conversion factor published by the Bureau of Labor Statistics or any other governmental agency then publishing same.

(e) In June of each year during the term hereof, City will include in its budget for the next fiscal year, the amount of the next fiscal year's Total Annual Groundwater Management Contribution.

(f) In November 2009 and in September of each year thereafter during the term hereof, City shall pay the Total Annual Groundwater Management Contribution for that year to the Groundwater Fund by wire transfer to an account established by District; provided, however, that in the event the balance of the Groundwater Fund ("Fund Balance") reaches the sum of Ten Million Dollars and No Cents (\$10,000,000.00) after paying to District the Administrative Fee, as hereinafter defined, and the District Facilities Charge, as hereinafter defined, ("Fund Limit"), the Total Annual Groundwater Management Contribution shall be decreased by an amount such that the Fund Balance will not exceed the Fund Limit. In the event the Fund Balance equals the Fund Limit at the time City is to make its Total Annual Groundwater Management Contribution, no such contribution will be due or owing until the next following year when the Fund Balance is below the Fund Limit.

(g) Anything to the contrary herein notwithstanding, the first four (4) Annual Groundwater Management Contributions due hereunder shall be reduced to equal the following:

(i) first year: Twenty Percent (20%) of the Annual Groundwater Management Contribution

(ii) second year: Forty Percent (40%) of the Annual Groundwater Management Contribution

(iii) third year: Sixty Percent (60%) of the Annual Groundwater Management Contribution

(iv) fourth year: Eighty Percent (80%) of the Annual Groundwater Management Contribution

(h) District shall receive as compensation for its administering, monitoring and overseeing the development, analysis, research, planning, accounting, construction, financing (including, without limitation, applying for grants and loans but specifically excluding the cost of professional services to prepare the applications for such grants and loans as well as any studies or reports required to support those applications) and implementation of Recharge Projects, an annual administrative fee ("Administrative Fee"), paid from the Groundwater Fund in an amount equal to Twelve Percent (12%) of the total Annual Contribution owed by each of the Five Cities pursuant to their respective Cooperative Agreements for that year; provided, however, that in no event shall any annual Administrative Fee be less than One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) per year plus any amount due and owing from each of the Five Cities for funding pursuant to the Upper Kings Basin Integrated Regional Water Management Joint Powers Agreement (which amount District will remit pursuant thereto when received by each of the Five Cities) and provided further that the Administrative Fee shall be paid as follows:

Twenty-Eight Percent (28%) of the first total Annual Groundwater Management Contribution owed by the Five Cities,

Fourteen Percent (14%) of the second Annual Groundwater Management Contribution owed by the Five Cities,

Eleven Percent (11%) of the third Annual Groundwater Management Contribution owed by the Five Cities, and

Eleven Percent (11%) of the fourth Annual Groundwater Management Contribution owed by the Five Cities.

(i) District shall receive from the Groundwater Fund as annual compensation for use of District Facilities for recharge the sum of Eighteen Dollars (\$18.00) multiplied by the Net Groundwater Use ("District Facilities Charge"). The District Facilities Charge shall be paid from the Groundwater Fund at the same time as and in addition to the Administrative Fee. The rate used to calculate that District Facilities Charge shall be adjusted at the times and pursuant to the formula applicable to the Annual Groundwater Management Contribution Rate as set forth in Paragraph 2 above.

(j) In the event a Recharge Project includes (i) the additional diversion of surface water for recharge into new or expanded recharge facilities or (ii) the purchase of water for recharge as well as the conveyance of that surface water or purchased water through District Facilities, District shall receive payment from the Groundwater Fund, as compensation for that use of the District Facilities and the attendant costs of operating and maintaining them for that purpose ("Wheeling Charge"), an amount equal to Three Dollars and No Cents (\$3.00) per acre-foot of water so purchased or diverted into District Facilities solely for the purpose of recharging said water as or via Recharge Projects. The rate used to calculate that Wheeling Charge shall be adjusted at the times and pursuant to the formula applicable to the Annual Groundwater Management Contribution Rate as set forth in Paragraph 2 above.

(k) Any grants received by District or any of the Five Cities to pay for any Recharge Project pursuant to this Agreement shall be paid into the Groundwater Fund, less any

costs and expenses incurred for professional services to prepare the application for the grant and any studies or reports necessary to support it.

(l) Expenditures from the Groundwater Fund, the receipt of grants for which the District or the Five Cities have applied to support Recharge Projects, as defined in this Agreement, and the payment by the Five Cities into the Groundwater Fund or to the District, as provided by this Agreement or the construction and operation of Recharge Projects, shall not excuse the District from continuing its historical and on going programs and activities to provide for groundwater recharge. District agrees to continue its historical and on going programs and activities to provide for groundwater recharge regardless of any expenditures from the Groundwater Fund or any other activities by the Five Cities regarding groundwater recharge.

3. Groundwater Replenishment Committee: Changed Circumstances and Renegotiation

(a) District shall expend monies from the Groundwater Fund pursuant to directions from a Groundwater Replenishment Committee ("Committee") composed of (i) a staff representative of one of the Five Cities (the "City Member"), (ii) a staff representative selected by the Board of Directors of the District ("District Member"), and (iii) a staff representative selected by the Board of Directors of the Kings River Conservation District ("KRCD Member")

(b) Each year during the term hereof, City shall appoint a representative to the Five Cities Group ("Five Cities Group"). In the first calendar month during the term hereof, the Five Cities Group will choose a staff representative of one of the Five Cities as the City Member to serve on the Committee.

(c) All expenditures and payments from the Groundwater Fund shall be used only for implementation of Recharge Projects and related activities and as matching funds for the

purposes of obtaining state and federal grants and loans to assist in the funding of Recharge Projects, and compensation to District as identified in Section 2(h), (i) and (j) of this Agreement.

(d) Not later than October of each year during the term hereof, the Committee shall authorize payment of the applicable Administrative Fee and the District Facility Charge from the Groundwater Fund to District.

(e) Pursuant to subparagraph 2 (i) above, upon delivery of the imported water and after presentation by District of an invoice therefor, identifying, at a minimum, the date of the purchase of water, the amount of water purchased, the calculation of the wheeling charge, and which Recharge Project received the water, the Committee shall authorize payment of the Wheeling Charge to District.

f. If more than ten (10) years after the Effective Date, a majority of the Committee agrees that changes beyond the control of the parties hereto in the cost of implementing Recharge Projects or the availability of water for recharge in a Recharge Project or any other change in economic, legal or environmental circumstances prevents the Committee from implementing Recharge Projects in a cost effective manner (collectively "Changed Circumstances"), the parties hereto shall attempt in good faith to renegotiate the terms of this Agreement in order to proceed with implementing Recharge Projects. City and District shall meet and confer in good faith for at least ninety (90) days in an effort to resolve any disputes related to the Changed Circumstances and the renegotiation of the provisions of this Agreement related thereto. If the parties are unable resolve such disputes within the ninety (90) day period, the parties agree to submit the disputes to mandatory good faith mediation. The parties agree that any statute of limitations applicable to any dispute between them regarding the Changed Circumstances shall be tolled for the period from the date mandatory mediation is requested by

either of them until ten (10) days after termination of the mediation. The parties agree to refrain from filing, maintaining or prosecuting any action related to such dispute during the pendency of such mediation, provided that the first mediation session must be held within thirty (30) days after the date one party makes written demand to the other for mediation. The parties agree that they shall participate in a minimum of one full day mediation session before the mediation may be declared unsuccessful and terminated by either party. Evidence of anything said, any admissions made, and any documents prepared in the course of mediation shall not be admissible in evidence or subject to discovery in any court action pursuant to California Evidence Code Section 1152.5. The mediator shall be an attorney or judge who is selected by mutual agreement of the parties and who is experienced in water matters. If the parties are unable to agree upon a mediator with these qualifications, then the mediator shall be appointed by JAMS/Endispute. The mediation shall be conducted in accordance with such rules as the parties agree upon, or in the absence of such agreement, in accordance with the Commercial Mediation Rules of JAMS/Endispute. The mediation conference shall take place in Fresno County. The mediator's fees shall be divided equally between the parties, but each party shall bear its own attorney's fees in any mediation.

4. District Facilities: City/District Standards.

(a) City shall adopt as a part of the City's improvement standards and specifications that are imposed as conditions of approval of urban development projects or granting of City approvals or permits within its jurisdiction, if applicable, the Standard Details and Development Standards attached hereto as Exhibit "A" and by this reference incorporated herein ("District Facilities Standards").

(b) City and District shall consult with respect to future amendments to District Facilities Standards and shall adopt and impose the amendments upon which City and District agree.

5. CEQA Mitigation.

(a) So long as City complies with its obligations under this Agreement as set forth in Paragraphs 2 and 3 above, District hereby acknowledges and agrees that all environmental impacts and effects on groundwater use, quantity and supply, but not on groundwater quality, caused by any new urban development projects in or adjacent to City using as their sole source of water groundwater supplied by City or pursuant to contract with City have been mitigated to less than significant in accordance with CEQA.

(b) So long as City complies with its obligations under this Agreement with respect to the District Facilities Standards as set forth in Paragraph 4 above, District hereby acknowledges and agrees that all environmental impacts or effects on District Facilities except topographical impacts (including, without limitation, subsidence) caused by new urban development projects in or to be annexed to City have been mitigated to less than significant in accordance with CEQA.

(c) The acknowledgements and agreements set forth in (a) and (b) above shall not waive any claims District may have against City with regard to any breach of the obligations of City set forth in this or prior Cooperative Agreements.

6. Stormwater Discharges into District Facilities: Conditions; Limitations.

(a) During the term hereof and so long as City complies with its obligations pursuant to this Agreement, City may continue to discharge Stormwater by pumps or gravity into District Facilities located in or adjacent to City but only through existing connections described

in Exhibit "B" attached hereto and by this reference incorporated herein and depicted on Exhibit "C" attached hereto and by this reference incorporated herein (individually, "Existing Connection" and collectively, "Existing Connections").

(b) Unless City has already done so as of the Effective Date, within two (2) years after the Effective Date, City will adopt a stormwater master plan that minimizes discharge of Stormwater into District Facilities, and requires new development projects in the City to dispose of Stormwater generated by that development project by means other than discharge into District Facilities whether by overland flow or intentional or unintentional discharge.

(c) During the term hereof, City shall not increase the area or the number of Drained Acres that discharge Stormwater through Existing Connections unless City and District mutually agree to and carry out a plan to mitigate the effects of the increased discharge of Stormwater through Existing Connections consistent with the terms and principles of this Agreement.

(d) City shall, prior to any discharge of Stormwater into District Facilities, obtain and comply with, at the sole cost and expense of City, all permits and approvals required by local, state or federal agencies or authorities having jurisdiction with respect thereto, including, if applicable and without limitation, the California Regional Water Quality Control Board and the California Department of Health Services, and comply with all applicable laws, statutes and regulations affecting that discharge. Except that, so long as City complies with its obligations under this Agreement, City shall not be required to obtain any additional permits and approvals from the District to discharge Stormwater from Existing Connections into District Facilities.

(e) Unless otherwise approved by District, all of City's Existing Connections shall not be relocated by City and shall be maintained and operated by City at all times at City's sole cost and expense in a manner that will not disturb or damage the bed or banks of District Facilities. District reserves the right, at its sole cost and expense, to make changes and relocate Existing Connections, so long as any such changes or relocations do not reduce the use or capacity of the Existing Connections. District reserves the right to require the temporary removal and/or the temporary suspension of operations of any Existing Connection from time to time if deemed necessary by District for the proper maintenance, operation, repair or protection of the District Facilities as set forth in subparagraph (l) below.

(f) Except as provided in Paragraph 6 (e) of this Agreement, City agrees to pay all costs and expenses incurred in the installation, maintenance, operation, changes, relocations, and removal of Existing Connections. Should City fail within thirty (30) days after receiving from District written notice to do or perform any act or thing required of City pursuant to Paragraph 6(e) of this Agreement, District may at its option, but shall not be required to, do or perform any such act or thing identified in said written notice and City agrees within thirty (30) days after its receipt of a written invoice from District identifying, with reasonable specificity, the act or thing done and the actual costs and expenses incurred by District to perform the act or thing done, reimburse District the costs or expenses identified in said written invoice.

(g) City will not at any time cause, or knowingly permit, or allow any substance or materials or debris that are harmful or obnoxious to plants, animals or humans or any Contaminant or Hazardous Substance as hereinafter defined to be discharged into the District Facilities.

(h) It is understood and agreed that District shall not be under any obligation to make any changes, repair, replacement or improvement to District Facilities or to restrict the flow or storage of water therein to accommodate Stormwater and City agrees that it will not cause Stormwater to be discharged into District Facilities at any time or times when the addition of Stormwater to water flowing or stored in the District Facilities might cause a break or breach thereof or overflow therefrom.

(i) Should District at any time elect to replace any of the existing District Facilities with underground pipelines, it shall, at least six (6) months prior to commencing that replacement, give to City written notice of that intended replacement along with information regarding the location of the pipeline and those provisions of the District Standards that relate to the installation of the pipeline. Within sixty (60) days after City's receipt of District's notice, City shall provide District with written notice of its election to connect its Existing Connection to the District's replacement pipeline. If City provides such written notice to District, City shall then have the right, at its sole cost and expense, in accordance with District Standards and without in any way delaying or interfering with that replacement, construct, operate and maintain a discharge connection to that replacement pipeline. If City fails to give the written notice to District or fails to complete the construction of that new discharge connection within sixty (60) days after District completes installation of the replacement pipeline, the District may terminate all rights and permissions given City hereunder with respect to the District Facilities replaced by the pipeline by giving City six (6) months prior written notice of such election and termination and in such event those rights and permissions given to City hereunder with respect to the District Facilities replaced with the pipeline shall cease and terminate upon the expiration of the six (6) month period.

(j) The City agrees to participate in the payment of costs and expenses for enlargement of District Facilities as mutually agreed by City and District should that be required to provide capacity for the Stormwater discharges.

(k) Other than needed repairs and maintenance, City shall not make material changes to or increase the capacity of the Existing Connections without the prior written approval of District, which approval shall not be unreasonably withheld.

(l) City shall not use the District Facilities in a manner that will interfere with the use thereof by District for the conveyance of irrigation or other waters or for any other District purpose or that will damage or impair District Facilities. The use of District Facilities by City shall at all times be subordinate to the use thereof by District. Anything to the contrary herein notwithstanding, but subject to giving City thirty (30) days' prior written notice, except in case of an emergency, and using reasonable efforts to meet and confer with City to ascertain ways and means to avoid or minimize impacts to City, District may regulate, interrupt or prohibit the discharge of Stormwater into District Facilities for the following reasons:

(i) the District determines there is an immediate threat of material damage to District Facilities,

(ii) reservation of capacity for conveyance of any water being stored or conveyed other than Stormwater;

(iii) contamination of District Facilities by City's discharge or potential discharge of Contaminants as described in Paragraph 7 below;

(iv) District construction activity including, without limitation, excavation and grading;

(v) District maintenance activity; and

(vi) District testing of soils and/or water.

7. Stormwater Quality, Contaminants/Hazardous Materials.

(a) As used in this Agreement, each of the terms "Contaminants" and "Hazardous Materials" means any hazardous or toxic substance, material or waste that is or becomes regulated by any local governmental authority, any agency of the State of California or any agency of the United States Government. These terms include any material or substance that is (i) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1317), (ii) defined as "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (42 U.S.C. §6903), (iii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 *et seq.* (42 U.S.C. §9601), (iv) petroleum and any petroleum by-products, and (v) asbestos.

(b) Prior to any discharge of Stormwater into District Facilities, City shall make all good faith efforts to remove as much trash, whether floatable or solids, from the City's Stormwater as is possible. City shall not, nor shall it permit its employees or contractors (collectively "City's Agents"), to discharge or dispose of any Hazardous Materials on, in, under or about District Facilities. City shall comply with all applicable laws, rules, regulations, orders and the like pertaining to those discharges.

(c) When practicable during the discharge of Stormwater generated by each initial substantial precipitation of a rainfall year during the term hereof, but no less often than two (2) times per year, City will, at its sole cost and expense, test samples of that Stormwater for the presence of any Contaminants or Hazardous Materials and promptly upon receipt of the

results of those tests, report them to District and any regulator having jurisdiction with respect thereto and requiring such tests.

(d) In the event any test performed pursuant to (b) above or any other similar test of water or soil in District Facilities indicates that such water or soil contains Hazardous Materials, City, at its sole cost and expense, shall remove that water or soil and dispose of it in accordance with all applicable laws, statutes and regulations.

8. Compensation to District.

(a) City shall pay to District for operation, maintenance, repair, reinforcing and replacement of District Facilities that receive and convey urban drainage from land within the City an amount equal to (i) One Hundred Fifty Dollars_(\$150.00) per acre of Drained Acres , reduced by any elimination or reduction of Existing Connections, as hereinafter defined, and Drained Acres therefrom in the area adjacent to the Existing Connections ("Drainage Fee"). The rate used to calculate the Drainage Fee shall be adjusted at the times and in accordance with the formula set forth in Paragraph 2 (d) of this Agreement.

(b) During September of each calendar year during the term hereof, City shall pay to District the Drainage Fee calculated pursuant to subparagraph (a) above.

9. CEQA Mitigation—Stormwater Impacts.

(a) So long as City complies with its obligations under this Agreement as set forth in Paragraphs 2, 6, 7 and 8 above, District hereby acknowledges and agrees that any environmental impacts or effects caused by past, present or future discharge of Stormwater into District Facilities and any impacts on those facilities caused by urban drainage water generated from development projects in or adjacent to City have been and will be mitigated to less than significant in accordance with CEQA.

(b) The acknowledgements and agreements set forth in (a) above shall not waive any claims District may have against City with regard to any breach of the obligations of City set forth in this or prior Cooperative Agreements.

10. Annexation and Detachment. The District territory shall exclude territory within the City. Any reorganization proposal submitted by the City to Fresno County LAFCo for the annexation of land for urban development projects approved by City shall request as a condition thereof, simultaneous detachment of such land from District.

11. Term; Termination. This Agreement shall remain in force and effect for a period of twenty (20) years from and after the Effective Date and shall terminate at the expiration of said twenty (20)-year period; provided, however, that the term hereof shall continue thereafter for additional terms of one (1) year each unless either party hereto, at least ninety (90) days prior to the expiration of any such one (1)-year additional term, gives written notice to the other party that the party giving that notice intends to terminate this Agreement at the end of that additional term, in which case this Agreement shall then so terminate. Anything to the contrary herein notwithstanding, if City, after good faith best efforts during the first calendar year of the term hereof, is unable to secure additional revenue sources to make its Annual Groundwater Contribution, City will meet and confer in good faith with District for at least three (3) months in an effort to examine, analyze and seek alternative revenue sources sufficient to make its Annual Groundwater Contribution. If after that attempt, there are no such additional revenue sources available to City, this Agreement shall terminate.

12. Indemnities/Hold Harmless.

(a) Indemnity by City. City shall, to the fullest extent permitted by law, be solely responsible for any and all claims by or damage or injury to persons or property that,

without sole negligence or willful misconduct on the part of District result directly or indirectly from the discharge of Stormwater or any other water by City into District Facilities or the acts or omissions of City or its elected officials, officers, employees, contractors, consultants, agents, invitees or authorized volunteers in performing or carrying out the obligations or rights of City hereunder. City shall indemnify, defend and hold District, and its elected officials, officers, employees, contractors, consultants, agents, invitees or authorized volunteers, free of and harmless from any fine, civil penalty, loss, cost, damage, or expense including reasonable attorneys' fees and costs, that may be caused to or incurred by them because of any injury or damage to persons or property arising from the negligence or fault of the City or its elected officials, officers, employees, contractors, consultants, agents, invitees or authorized volunteers in connection with the discharge of Stormwater or any other water by City into the District Facilities or those acts or omissions. This indemnification agreement shall not be restricted to any insurance proceeds available to City and shall survive the termination of this Agreement.

(b) Indemnity by District. District shall, to the fullest extent permitted by law, be solely responsible for any and all claims by or damage or injury to persons or property that, without sole negligence or willful misconduct on the part of City result directly or indirectly from the ownership, use, operation, installation, maintenance, replacement or repair of District Facilities or from the acts or omissions of District or its elected officials, officers, employees, contractors, consultants, agents, invitees or authorized volunteers in performing or carrying out the obligations or rights of District hereunder. District shall indemnify, defend and hold City, and its elected officials, officers, employees, contractors, consultants, agents, invitees or authorized volunteers, free of and harmless from any fine, civil penalty, loss, cost, damage, or expense including reasonable attorneys' fees and costs, that may be caused to or incurred by

them because of any injury or damage to persons or property arising from the negligence or fault of the District or its elected officials, officers, employees, contractors, consultants, agents, invitees or authorized volunteers in connection with the District's ownership, use, operation, installation, maintenance, replacement or repair of District Facilities or those acts or omissions. This indemnification agreement shall not be restricted to any insurance proceeds available to District and shall survive the termination of this Agreement.

13. Default. If and so long as City shall be in default in the payment of any sum that comes due to District hereunder or in the performance of any term, agreement, act or condition to be done or performed by City hereunder, District may suspend all or any of the rights and permissions given to City hereunder until such default is corrected by City.

14. Notices. All notices required or permitted by this Agreement or applicable law shall be in writing and may be delivered in person (by hand or by overnight courier) or may be sent by regular mail or certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 14. The addresses noted below shall be that party's address for delivery or mailing of notices. Any party may by written notice to the other specify a different address for notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, two (2) days after the postmark thereon. If sent by regular mail the notice shall be deemed given two (2) days after the postmark thereon. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given twenty-four (24) hours after delivery of the same to the Postal Service or overnight courier. Notices transmitted by facsimile transmission shall be deemed delivered upon confirmation of

receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail in accordance with the provisions of this Paragraph 14. If notice is received after 4:30 p.m. in the time zone in which the party is located or on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

15. Amendment to Agreement. No modification of, deletion from, or addition to this Agreement shall be effective unless made in writing and executed by both the City and District.

16. Severability. In the event any clause, sentence, term or provision of this Agreement shall be held by any court of competent jurisdiction to be illegal, invalid, or unenforceable for any reason, the remaining portions of this Agreement shall nonetheless remain in full force and effect. This Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against either of the parties.

17. Binding on Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, grantees, transferees, successors, and assigns.

18. Governing Law. This Agreement is made under and shall be construed in accordance with the laws of the State of California.

19. No Partnership/Joint Venture. This Agreement does not evidence a partnership or joint venture between the City and District or any other party or affiliate.

20. Third Party Beneficiaries. Nothing in this Agreement shall be construed to confer any rights upon any party not a signatory to this Agreement.

21. Captions and Headings. The captions and headings in this Agreement are inserted only as a matter of convenience and for reference, and in no way define the scope or the extent of this Agreement or the construction of any provision.

22. Voluntary Agreement: Authority to Execute. Each party hereto represents that it has read this Agreement in full and understands and voluntarily agrees to all provisions herein. The parties further declare that prior to signing this Agreement they each had the opportunity to apprise themselves of relevant data, through sources of their own selection, including consultation with counsel of their choosing, in deciding whether to execute this Agreement. The signatories to this Agreement represent that they have the proper authority to execute this Agreement on behalf of the respective party.

23. Sole and Only Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the matters set forth herein and contains all of the covenants and agreements between the parties regarding said matters. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or in writing, have been made by any party or anyone acting on behalf of any party which are not embodied in this Agreement and no other agreement, statement or promise shall be valid or binding.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

"CITY OF _____"

By _____

"DISTRICT"
CONSOLIDATED IRRIGATION
DISTRICT

By _____
Robert Nielsen, Jr., Board President
Consolidated Irrigation District
2255 Chandler Street
Selma, California 93662

DMS: 699462_112/11/08 clean

Exhibit "A"

COST CALCULATION SHEET

	1	2	3	4	5	6	7	8	9	10	11	12	
	GH2O Pumped	Discharge to WWTP	ET (15%) AF 2 x 0.15	Recharge (acre-feet) 2 - 3	Ramp up Recharge Factor	Location Recharge Factor	WWTP Net Recharge 4 x 5 x 6	City Acreage 8 x 0.92 x 0.4	Storm Water Recharge 1-(7+9)	GH2O Net Pumped	GH2O Management Cost @\$130/AF	Drainage Fee	Total Cost
Selma	7,389	2,089	310	1,759	0.9	0.2	317	3243	1,193	5,879	\$764,274	\$411,450	\$1,175,724
Kingsburg	4,550	1,274	191	1,083	0.9	0.2	185	1789	658	3,697	\$480,574	\$11,550	\$492,124
Fowler	2,080	582	87	495	0.9	0.2	89	1604	580	1,401	\$182,081	\$0	\$182,081
Parlier	3,241	1,567	235	1,332	0.9	1.0	1,199	1423	524	1,519	\$197,416	\$12,000	\$209,416
Sanger	6,095	1,881	282	1,539	0.9	1.0	1,439	3650	1,343	3,313	\$430,669	\$31,950	\$462,619
	23,355	7,373	1,106	6,257			3,238	11709	4,309	15,808	\$2,055,013	\$466,950	\$2,521,963

	Drain Fee @ \$150/acre
Drained Acres (1)	
Selma	2743
Kingsburg	77
Fowler	0
Parlier	80
Sanger	213
	3113
	\$411,450
	\$11,550
	\$0
	\$12,000
	\$31,950
	\$466,950

(1) Current estimate, subject to change pursuant to Section 2, paragraph c.

Exhibit "B"

CALCULATION OF NET GROUNDWATER PUMPED

	1 Total GH2O pumped ⁽¹⁾	2 Discharge to WWTP ⁽²⁾	3 ET ⁽³⁾	4 Net WWTP Recharge ⁽⁴⁾	5 Ramp up Reduction Factor ⁽⁵⁾	6 Location Reduction Factor ⁽⁶⁾	7 Allowed WWTP Recharge ⁽⁷⁾	8 City Acreage ⁽⁸⁾	9 Stormwater Recharge ⁽⁹⁾	10 Net GH2O Pumped ⁽¹⁰⁾
			2×0.15	$2 - 3$			$4 \times 5 \times 6$		$8 \times 0.92 \times 0.4$	$1 - (7 + 9)$
Selma	7,389	2,069	310	1,759	0.9	0.2	317	3243	1,193	5,879
Kingsburg	4,550	1,274	191	1,083	0.9	0.2	195	1789	658	3,697
Fowler	2,080	582	87	495	0.9	0.2	89	1604	590	1,401
Parlier	3,241	1,567	235	1,332	0.9	1.0	1,199	1423	524	1,519
Sanger	6,095	1,881	282	1,599	0.9	1.0	1,439	3650	1,343	3,313
TOTALS	23,355	7,373	1,106	6,267			3,238	11709	4,309	15,808

- (1) Groundwater pumping (in acre feet) reported to State Dept. of Health, Office of Drinking Water.
- (2) For Selma, Kingsburg and Fowler, effluent discharge (in acre feet) to ponds at Wastewater Treatment Plant (WWTP) is that reported by SKF. Combined discharge to SKF equals 28% of combined pumping by Selma, Kingsburg and Fowler, therefore discharge for each city was assigned a value of 28% of groundwater pumping. For Parlier and Sanger, discharge is that reported by each City as entering that city's WWTP.
- (3) Evapotranspiration (ET) in acre feet at WWTP. Per City of Fresno data, 15% water loss is assumed due to pond evaporation, sludge drying, etc. This loss is deducted from discharge to WWTP to produce net WWTP recharge.
- (4) Net direct recharge (in acre feet) at WWTP after deducting for ET.
- (5) Since the "ramp-up" of annual contributions over the first five years set forth in subparagraph 2(g) of the Agreement provides, in effect, a 10% discount in favor of each city, this factor multiplies the recharge by 90% (100% - 10%) to take into account the 10% discount already granted in subparagraph 2(g).
- (6) Factor to account for unfavorable location of WWTP recharge. Factor is multiplied by net WWTP recharge to determine allowed WWTP recharge. Because discharge at SKF can only benefit approximately 20% of the land within Consolidated Irrigation District (CID), a factor of 0.2 is applied. Discharges at Parlier and Sanger WWTP's occur within or upgradient of CID and are therefore assigned a factor of 1.0.
- (7) Allowed WWTP recharge (in acre feet). Volume is determined multiplying net WWTP recharge by reduction factors.
- (8) Total acreage within the city limits as provided by LAFCo.
- (9) Volume (in acre feet) of stormwater recharged by city. Calculated by multiplying city acreage by average annual rainfall of 0.92 feet (11 inches) and multiplying by runoff coefficient (0.4) that accounts for land use as used by Fresno Metro. Flood Control District.
- (10) Net groundwater pumped (in acre feet) is determined by subtracting allowed WWTP recharge and stormwater recharge from total groundwater pumped.

Summers Engineering, Inc.
Consulting Engineers
Hanford, California

DRAFT

**Engineer's
Report**

CONSOLIDATED IRRIGATION DISTRICT
Urban Impacts Study

July 2007

Summers Engineering, Inc.
Consulting Engineers
Hanford, California

Engineer's Report

CONSOLIDATED IRRIGATION DISTRICT
Urban Impacts Study

July 2007

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Introduction

Consolidated Irrigation District (CID) is located in the San Joaquin Valley, on the eastern side of Fresno County and in portions of Kings and Tulare Counties. Figure 1 is a map of the District. CID is comprised of approximately 145,000 acres (gross) of irrigable land. Approximately 95,000 acres are capable of receiving surface water through the District's diversion from the Kings River. CID's average annual surface water irrigation deliveries are approximately 238,000 acre feet. The remaining 50,000 acres (gross) obtain a water supply exclusively from groundwater.

The majority of CID's acreage has historically been used for agricultural purposes. The incorporated cities of Fowler, Kingsburg, Parlier, Sanger, and Selma are within CID's boundaries, as well as several unincorporated urban communities such as Caruthers and Del Rey. In recent years the growth rate of these urban areas has increased dramatically. Growth projections indicate the rate of urban growth in this region of California will remain high for at least the next 10 to 20 years.

In the past, when proposals for new urban development have come before CID, the District has typically maintained a cooperative relationship with city governments and developers. With the lower growth rates of the past, CID was able to adapt its operations in small urban areas with minimal impacts to the District. However, even these small incremental impacts have accumulated over the years, resulting in difficult operating conditions, strained budgets, and increased risk to public safety. With the current rate of urban growth, impacts on the District have become much more severe and caused the District to seek mitigation measures from new urban developers.

The most significant aspect of the mitigation measures presented in this report relates to the issue of urban groundwater consumption. Groundwater levels throughout most of CID have declined over the past 80+ years of record, indicating an overdraft of the groundwater basin. An analysis included in this report shows that

the average annual volume of Kings River water that CID diverts for direct groundwater recharge is sufficient to meet agricultural pumping demands. It also shows that the current volume of groundwater that is needed to support the cities within the District is equal or greater than the average annual overdraft. In other words, on an average annual basis, CID provides enough groundwater recharge to support agricultural pumping, while urban usage (for which there are no imported supplies) accounts for 100% of the overdraft.

This report will identify the impacts that urban development has on District assessment revenue, local groundwater storage and water supplies, and the operation and maintenance of District facilities. Use of the District's facilities for disposal of urban storm water will be evaluated and the subsequent impacts will be identified. Specific capital improvements for mitigating urban development impacts will be outlined in the context of a proposed rehabilitation and betterment plan for the District. For each impact that is identified, information and data will be presented which shows the connection between urban development and the impact. Separate analyses will be made to quantify the costs to CID for mitigating each impact. The report will summarize the mitigation costs and provide a basis for an urban impacts mitigation fee that the District would charge to future urban developments as a condition of project approval.

It should be noted that the fees proposed in this report would be applied uniformly to new urban development throughout the District. If a site specific development requires the relocation or modification of District facilities, the costs for those improvements will be born entirely by the developer of that specific project (as is done currently), and the mitigation fees will be in addition to the site specific improvement costs. The rationale for this approach is discussed in greater detail in the *Proposed Impact Fee* section of the report.

Local agencies that impose impact fees are required under *California Government Code 66000* to document five statutory findings. This is typically done through the

preparation of a public facilities impact fee study or nexus study. This report provides the documentation that is needed for the statutory findings and therefore serves as the District's nexus study. The final section of the report includes the mandatory findings language from §66001(a) and specific references within the report that support each finding.

CID anticipates entering into Memoranda of Understanding (MOU's) with each city in the District that adopts and imposes the mitigation fees. The MOU's could provide guidelines or specific requirements as to how fees would be apportioned to mitigate the various impacts identified. In accordance with §66000, the District would deposit all fees into a restricted account and maintain an accounting of all mitigation expenditures that are drawn from the account. The language in the MOU's could include allocation percentages based on the fee components and account thresholds that trigger the implementation of specific capital improvements.

Assessment Revenue

The District recovers its operating expenses and retires debt for improvement projects through annual acreage assessments on lands within the District. There are three (3) primary assessment rates which are based on the type of water service available. The District uses a percentage system so the various rates are constant proportions of one another. The current rates have been calculated to a per acre charge and are listed below in Table 1.

Table 1
Current CID Assessment Rates

Water Service	Rate Calculation	Rate
CID Gravity	\$18.00 x 100 percent / acre	\$18.00 per acre
Church Gravity	\$18.00 x 120 percent / acre	\$21.60 per acre
Pump	\$18.00 x 40 percent / acre	\$7.20 per acre

The CID gravity rate is for users that are eligible to receive surface supplies. The pump rate is for users that are not eligible to receive surface supplies. The CID gravity rate is higher than the pump rate because the service provided to CID gravity rate users is more valuable than the service to pump users. To provide a given annual irrigation delivery, a CID gravity rate user would not have to operate his private well as often as a pump rate user needing the same annual delivery. Even though lands on the Pump rate do not receive surface water deliveries, they still receive the benefit of groundwater recharge provided by the District's water delivery and recharge pond system. The District's groundwater recharge system and the benefits thereof are described in greater detail in the *Groundwater and Water Supplies* section of this report.

The Church gravity rate is for select users eligible to receive surface supplies through the Lone Tree Canal system. Lands that are eligible to receive the Church water entitlement are based on the historic Church water service area. These lands are not necessarily contiguous and are at scattered locations along the present day Lone Tree Canal system of ditches and laterals. The Church gravity rate is higher than the CID gravity rate because the entitlement provides a longer duration of annual deliveries. A typical water run for CID gravity rate users may last a little over three (3) months, while the typical water run for Church gravity rate users is nearly six (6) months.

The District places other types of assessments on a relatively small acreage of lands within the District. Lands that are typically inundated during heavy rains or flood releases in the Kings River are assessed under the "pond" rate, which is currently \$0.18 per acre.

CID's policy since 1979 has been to charge cities 90% of the Pump rate for new lands that are annexed into the city limits. Acreage assessments are CID's principal source of revenue. Therefore, when lands in the District are annexed to a city, CID's revenues from those lands are reduced by up to 70% ($100\% - 90\% \times \$7.20 / \21.60), which is the difference between the Church Gravity rate and 90% of the Pump rate. Revenue reduction for lands that switch from the CID Gravity rate to the City rate is 64%. For lands that switch from the CID Pump rate to the City rate the reduction is 10%.

Table 2 is a summary of the acreages assessed by the District over the past five years. Acreages listed for "Other" water service are primarily charged the pond rate noted above. The total assessed acreage in the District decreases slightly each year due to acreage adjustments made by the Counties for parcel splits or new county road rights-of-way. Table 2 indicates the trends for lands with CID water service being detached from the District.

Table 2
Assessed Acreage of Past 5 Years

Water Service	FY2001-02	FY2002-03	FY2003-04	FY2004-05	FY2005-06
CID Gravity	86,517	86,358	86,273	86,222	86,002
Church Gravity	8,092	7,937	7,935	7,934	7,892
Pump	48,301	48,255	48,179	48,074	47,866
City	9,114	9,460	9,612	9,754	10,197
Other	642	638	638	636	635
Totals	152,666	152,648	152,637	152,620	152,592

Table 3 indicates the changes in assessed acreages for the five years listed in Table 2. On average the cities in CID gained 271 acres per year, while the District lost an average of 309 acres per year. Therefore, approximately 88% ($271 / 309$) of the acreage that was detached from the District during this period was annexed into the cities.

Table 3
Change in Assessed Acreages

Water Service	Acreage Change (FY01-02 to FY02-03)	Acreage Change (FY02-03 to FY03-04)	Acreage Change (FY03-04 to FY04-05)	Acreage Change (FY04-05 to FY05-06)	Average Acreage Change
CID Gravity	-159	-85	-51	-220	-129
Church Gravity	-155	-2	-1	-42	-50
Pump	-46	-76	-105	-208	-109
City	346	152	142	443	271
Other	-4	0	-2	-1	-2
Totals	-18	-11	-17	-28	-19

Using this percentage, the average change in CID's revenue can be calculated as shown in Table 4. The average annual loss of revenue for CID due to city annexations was \$2,036 or \$7.51 per acre ($\$2,036 / 271$ acres). The present value of this annual amount is \$147 per acre. See Appendix A for an explanation of the present value factor used.

Table 4
Average Change in CID Revenue from City Annexations

Water Service	Acreage Change x 88%	% Reduction	Assessment Rate	Average Revenue Change
CID Gravity	-113	64%	\$18.00	-\$1,302
Church Gravity	-44	70%	\$21.60	-\$665
Pump	-96	10%	\$7.20	-\$69
Totals	-253			-\$2,036

In the *Groundwater and Water Supplies* section of this report a value of 3.75 single family housing units per acre is established as a typical housing density in CID. Using this value, CID's lost revenue from city annexations is \$39 per housing unit ($\$147 / 3.75$).

Groundwater and Water Supplies

CID's water delivery system is comprised of approximately 350 miles of open channels, which include constructed ditches and channelized natural drains and sloughs. There are also numerous lateral pipelines and piped portions of the main channels. The headworks of the water system is a diversion structure on the Kings River located north of the Belmont Avenue alignment. Two (2) main channels, the Fowler Switch and Centerville and Kingsburg (C&K) Canals, branch out near this location and serve the majority of lateral channels and pipelines that fan out across the District. One (1) additional main channel, the Lone Tree Canal, diverts water from Fresno Irrigation District's Fresno Canal and delivers it to various laterals within the District. A portion of the water delivered through the Lone Tree system is categorized as "Church" water and carries a higher water entitlement. The additional benefits afforded by the "Church" right are discussed in the *Assessment Revenue* section of the report.

The District provides two (2) primary types of service to its users. The first is gravity surface water deliveries which are made directly to users through the District's water delivery system. The duration of these supplies varies from year to year based on the runoff of the Kings River and the allocated storage available in Pine Flat Reservoir. In a typical year, surface water deliveries begin in April and terminate in mid-August. Fewer available supplies from the Kings River result in a later starting date and/or an earlier ending date for the District's surface water deliveries.

The second type of service provided by the District is groundwater recharge which occurs by three (3) distinct methods. The first two (2) methods provide direct recharge of the underlying groundwater basin. This occurs through (1) seepage from the earthen channels during their operation, and (2) dedicated recharge basins. The native soils throughout much of the District are sandy and allow relatively rapid infiltration. The groundwater basin is also largely unconfined, which means infiltration at the surface provides a direct contribution to the groundwater basin. The District's

overall water system includes over 50 dedicated recharge basins with a total surface area of approximately 1,300 acres. District water supplies are delivered to these basins through the system of canals and laterals. Timing of the deliveries to the recharge basins varies based on runoff conditions and available supplies. Typically, deliveries to the recharge basins occur when there are excess flows or flood releases in the Kings River. The third method of groundwater recharge is "in lieu" recharge. This benefit to the groundwater basin occurs because users that receive surface water supplies from the District do not need to operate their private irrigation wells for a substantial portion of the growing season. Groundwater that is not pumped by these users is available to other users within the groundwater basin such as cities and agricultural users without available surface supplies.

Figure 2 is a graph of historic CID surface water diversions versus average depth to groundwater in the District. CID maintains a system of approximately 80 groundwater monitoring wells located on a 2 mile square grid pattern throughout the District. The water levels in these wells have been measured and recorded by District staff since the inception of the District. Typically all wells were read on a monthly basis up until 2001. Since then readings have been taken no less than two times per year. The lower portion of Figure 2 indicates the average water level of all the District's monitoring wells from 1923 to present. This average depth varies considerably depending on the hydrologic conditions of the groundwater basin. However, the data also indicates a definite downward trend in groundwater levels over the period of record. The slope of a linear regression (best fit) line for this data is approximately 0.54 feet per year. Based on the specific yield of the aquifer and the acreage within the overall boundary of the District, this decline amounts to an average overdraft of approximately 13,500 acre-feet per year.

The top part of Figure 2 indicates the volume of Kings River water that CID has diverted into the District each year. The majority of these diversions were used by growers for irrigation. The sub-bars shown on the graph in certain years indicate the portion of the diversions that were delivered into CID's recharge basins from

September through March. These pond deliveries averaged approximately 31,000 acre-feet per year over the period of record. In very wet years the District's recharge ponds were also kept full during other months of the year, including the irrigation season. For instance, between March of 1981 and January of 1984, pond diversions were made continuously during 33 of 34 months. Although specific data for pond deliveries during the irrigation season is not available, it is estimated that these diversions plus the seepage from CID's canal system have provided an average of 20,000 acre-feet per year.

Comparing the diversion data on the top of Figure 2 with the average depth to groundwater on the bottom shows how well the groundwater basin responds to CID's recharge deliveries. Each time a steep decline in groundwater levels was followed by significant recharge pond deliveries, the levels rose just as rapidly as they had fallen.

When land in CID is converted from agricultural to urban use, a portion of the water used on the land in the urban area is collected in sanitary sewer systems and transported off site for treatment. While some treated effluent may be percolated at the treatment plants, much of it does not provide a benefit to groundwater supplies within the District or it is evaporated. Sanger's wastewater treatment plant is located below a bluff that parallels the Kings River along the east side of Sanger. The groundwater gradient at this location slopes toward the river and therefore negates any significant contribution to groundwater storage in the District. The Selma-Kingsburg-Fowler (SKF) regional wastewater treatment plant is located west of Kingsburg in the low lying swale that parallels the Ward Drain. Groundwater recharge at this location also provides a minimal contribution to storage in the District because the gradient slopes southwesterly and the District boundary is only a couple miles southwest of the treatment plant site. Percolation at both treatment plant sites is also limited by the combination of low lying ground and groundwater mounding that results from continuous percolation. Consequently, much of the treated effluent cannot be percolated and must be evaporated.

Another portion of the water used on urban land is collected in the local storm drainage system. Most new developments include nearby storm water basins that retain runoff and allow it to percolate into the ground locally. There are no known potable surface water treatment plants within CID. Therefore, all urban water that is delivered for domestic purposes is groundwater that is pumped by city wells. The cities served by those wells are receiving direct benefits from CID's groundwater recharge program through lower pump lifts and increased reliability of their water supply.

Agricultural land in CID relies on irrigation water from two sources: (1) Kings River surface water delivered through the District's canal system, and (2) pumped groundwater. Growers that have canal water rights primarily use surface water for irrigation with some groundwater used as a supplement when sufficient surface supplies are not available. Growers without canal water rights must use groundwater exclusively.

When crops are irrigated, a percentage of the water that is delivered to the field is used by the plants through evapotranspiration (ET). The efficiency in which the water is delivered to the plants determines what percentage is not used by the crop. One hundred percent (100%) irrigation efficiency would result in the plant using all the water that is delivered with no excess. Fifty percent (50%) efficiency would result in half the water that is delivered being used by the crop and half being excess. Because of the sandy soils in CID, a realistic irrigation efficiency is 70%. This results in 30% deep percolation. For furrow and flood irrigation methods, more water must be applied at the top of the field to adequately irrigate the bottom before the water percolates. The lands in CID generally overlay an unconfined groundwater aquifer. Therefore, deep percolation below the root zone provides a direct contribution to groundwater supplies. The following analysis provides estimates of the water that is extracted and returned to the groundwater aquifer for three land use scenarios: (1) urban development supplied by groundwater, (2) agriculture irrigated with a

combination of surface water and groundwater, and (3) agriculture irrigated with groundwater. Appendix B includes tabulated calculations of the analysis.

Urban Water Use

To estimate typical urban usage, a study area at the west edge of Kingsburg was considered. The area is approximately 74 acres and it was recently developed with single family tract homes and a small number of multifamily units. The density is approximately 3.75 single family homes per acre. The study area is representative of other urban developments throughout CID. Soil types may vary within the District, but there are no significant clay formations that serve to confine the aquifer. So even though the water that is applied to the study area in Kingsburg may percolate at a different rate than water applied to the ground in Sanger, the net consumption of groundwater will be the same. If additional analyses of urban water usage were made at other specific locations in CID, the results would be approximately the same.

Precipitation was assumed to percolate to groundwater either directly on open areas around the homes or after being collected in a nearby storm water basin. A portion of the average annual precipitation on the study area would be used for the ET of residential lawns. The annual contribution to groundwater from precipitation was estimated at 53 acre-feet. The actual contribution to groundwater could be slightly less because clogged drop inlets allow standing water on streets and gutters to be evaporated after a rain storm.

Based on an Urban Water Needs Analysis by the Department of Water Resources (DWR), a per capita usage of 70 gallons per day was used. Based on published urban use data from DWR (Bulletin 166-4) the average household in CID was estimated at 3.5 people. The resulting annual indoor water usage for the study area was 76 acre-feet.

The annual outdoor usage for the study area was estimated to be 83 acre-feet, based on average annual ET for lawn turf, average annual precipitation, and 90%

irrigation efficiency. Excess lawn irrigation typically runs into the storm drain system and is lost to evaporation, so no contribution to groundwater was included for lawn irrigation. Water in residential swimming pools is lost through evaporation and pool leakage. However, the number of swimming pools in the study area was only about 10% of the total number of homes, and therefore the potential losses or contributions to groundwater were considered negligible.

Water is also consumed in order to operate municipal distribution systems. These losses are attributable to fire fighting, line flushing, pipe breaks, and leaks. DWR's Urban Water Needs Analysis estimated that these items required an additional 8% of the total use by homes. One half of the system losses were assumed to be from leakage that would conceivably contribute to groundwater. Therefore, the annual net usage of the study area for system operation was 4% of the total use or 6 acre-feet.

The total urban usage for the study area is therefore 165 acre-feet or **2.23 acre-feet per acre**. Precipitation returns approximately 53 acre-feet for a net reduction to groundwater of 112 acre-feet, or **1.51 acre-feet per acre** (Appendix B, line 30). A comparison was also made of the total urban usage results (exclusive of precipitation) against DWR's Urban Water Use data, which is available for the City of Selma. Based on the volume of water pumped into Selma's water system in 1986 and mapping of the city limits that same year, water use was 2.18 acre-feet per acre. Because the measured acreage within the city limits of Selma includes areas with minimal water usage (commercial-industrial areas between Highway 99 and Golden State Blvd.), or areas that are farmed using wells not connected to the City's water system (land surrounding air strip), it is reasonable that the per acre usage would be slightly lower than for the study area housing development.

Water Use for Agriculture Irrigated with Imported Surface Water & Groundwater

Given the flat topography and sandy soils within CID, agricultural land can generally percolate 100% of the annual precipitation that is not used by crop ET. In other words, storm runoff from agricultural land is generally minimal in CID. On this basis

the annual amount of groundwater recharge to the study area from precipitation was calculated to be 49 acre-feet or 0.67 acre-feet per acre.

For agricultural water use estimates, it was assumed the study area was farmed with grapes, which are a predominant crop within CID. Based on average ET values for grapes in the San Joaquin Valley, average annual precipitation in the area, and 70% on-farm irrigation efficiency, the estimated annual water needed for irrigation is 3.05 acre-feet per acre. Based on data from a Turnout Metering feasibility study the District performed in 2003 and 2004, average surface water usage is approximately 1.60 acre-feet per acre. The balance of water needed for irrigation (1.45 acre-feet per acre) must therefore come from pumped groundwater. Due to the sandy soils and typical irrigation methods in CID, excess irrigation water not used by the crop infiltrates to groundwater. This contribution to groundwater is 0.92 acre-feet per acre. For the study area, agriculture irrigated with imported surface water and groundwater provided a net contribution to groundwater of **0.14 acre-feet per acre** (-1.45 pumped +0.67 precip +0.92 excess irrigation) (Appendix B, line 41).

It is also noteworthy that CID's Church water users have a higher water right than other canal water users in the District. Because this water right provides canal deliveries during most of the growing season, Church water users irrigate almost entirely with surface water. Subsequently, the net positive contribution to groundwater is even greater for Church water users than other CID canal water users.

Agriculture Irrigated with Groundwater

For this usage scenario values are the same as for agriculture irrigated with surface water, except that all water needed for irrigation must come from pumped groundwater. The net reduction to groundwater is therefore **1.46 acre-feet per acre** (-3.05 pumped +0.67 precip +0.92 excess irrigation) (Appendix B, line 43) for agriculture irrigated entirely with groundwater.

This analysis indicates there is a net increase in groundwater consumption of **1.65 acre-feet per acre** ($1.51+0.14$) (Appendix B, line 44) when land use in CID changes from agriculture (grape vines) irrigated with a combination of surface water and groundwater to an urban housing development. There is a net increase in groundwater consumption of 0.05 acre-feet per acre ($1.51 - 1.46$) when land use changes from agriculture irrigated with only groundwater to an urban housing development. For the purposes of calculating the impacts to CID, the groundwater consumption difference between agricultural land irrigated entirely with groundwater and urban land is considered negligible. Therefore, subsequent analyses will focus only on the consumption difference between agricultural land irrigated with surface water versus urban land.

The following water budget was formulated using the preceding analysis of groundwater consumption and the acreage data in Table 2 (FY2005-06). The unit consumption value used for Church Gravity water service assumes that Church users only require about 20% of their irrigation supplies from groundwater. The unit consumption value for "Other" acreage is based on the average annual precipitation that percolates on non-irrigated land such as ponds. Annual consumption values are rounded to the nearest hundred acre-feet.

Water Service	Acreage	Unit Consumption (ac-ft/ac/yr)	Annual Consumption (ac-ft/yr)
CID Gravity	86,002	-0.14	-12,000
Church Gravity	7,892	-1.00	-7,900
Pump	47,866	1.46	69,900
Other	635	-0.90	-600
Total Ag Consumption			49,400
City	10,197	1.51	15,400
Total annual overdraft			64,800

The total annual overdraft less the average annual direct recharge provided by the District results in a net overdraft of approximately 13,800 acre-feet per year (64,800 ac-ft – 31,000 ac-ft Sep. through Mar. pond deliveries – 20,000 ac-ft additional pond deliveries & canal seepage). This amount is nearly equal to the average annual overdraft indicated in Figure 2.

During the past few years stakeholders in the upper part of the Kings River have collaborated on the preparation of an integrated regional water management plan (IRWMP). The preparation of this plan included development of a hydrologic computer model for the Kings River groundwater basin. Data generated by the model has been compiled and summarized in a report that was prepared for CID by WRIME Engineering. WRIME's report serves as a supplement to this study, and the model results support the conclusion that the groundwater basin is overdrafted. WRIME's report projects even higher rates of urban growth and subsequent increases in urban groundwater consumption over the next 25 years.

At the beginning of 2002, California Senate Bill 221 and Assembly Bill 610 became effective. These laws mandate that new developments of 500 or more dwelling units have verification of a reliable water source through the preparation of a Water Supply Assessment (WSA) report. For most of the urban housing developments that have recently been approved within CID, this requirement has largely been bypassed by keeping the size of the development below 500 units. Were WSA's to be prepared for new developments in CID where the land has historically received imported surface water supplies, the results would show a net increase in groundwater consumption similar to the preceding analysis. To comply with the law, developers would have to seek out additional supplies to offset the increased consumption. Instead cities in CID have not sought out new water supplies and have relied on the existing groundwater supplies that are available primarily due to CID's historic groundwater recharge activities. Based on the water budget presented herein, CID's average annual recharge deliveries were slightly more than the amount of groundwater consumed by agricultural users (51,000 ac-ft versus 49,400 ac-ft), while

annual urban consumption is slightly higher than the net overdraft (15,400 ac-ft versus 13,800 ac-ft).

The cities in the District already have water systems built around groundwater wells. CID has its own infrastructure of canals and ponds that can be used to deliver imported surface water for groundwater recharge. Therefore, it is apparent that the most economic way for new urban developments to provide reliable water supplies is for CID to import surface supplies to its recharge ponds.

CID's facilities have been developed and financed over the District's history through general and special assessments paid by the District's constituents. The portion of the District's system used to deliver surface water into CID's ponds and provide groundwater supplies to replace water diverted by new urban developments has a value that can be determined based on the replacement cost of the facilities and the proportion of the system's capacity that is used for these purposes.

The replacement cost of CID's water system is presented in the tabulation in Appendix C. All canals, pipelines, road crossings, farm bridges, check structures, and recharge ponds were tabulated together with the estimated replacement costs for those facilities. The tabulation of facilities was done using scaled mapping and aerial photos of the District. Canals were categorized by their capacity and the sizes of the various facilities were determined based on the capacity categories. For instance, the Fowler Switch Canal has a design capacity of 1,100 cubic feet per second (cfs) from its headworks northeast of Sanger to the crossing of Highway 99 on the northwest side of Selma. The right-of-way width, the size of the channel, and the size of the road crossings, bridges, and check structures within this reach of the Fowler Switch Canal were determined based on that design capacity. The unit costs of these items were estimated based on current land and material costs and typical construction bid prices. District facilities that are not necessary for the delivery of water to CID's recharge basins were tabulated but their costs were excluded from the total. Also, road crossings and farm bridges were included in the tabulation but their

replacement costs were excluded since the construction of these facilities were not funded by the District. The applicable total estimated replacement cost of CID's system is \$320-million.

CID's average annual diversion of Kings River water is 238,000 acre-feet. The groundwater use analysis presented earlier in this section determined that each acre converted from agricultural land use (irrigated with surface and groundwater) to urban housing consumes 1.65 acre-feet per year more groundwater. Therefore, the fraction of CID's annual delivery capacity that is needed to offset the additional groundwater consumption caused by urban land use is 6.93×10^{-6} ($1.65 / 238,000$). Multiplying this small fraction by the applicable replacement value of the District's system results in a cost of \$2,218 per acre, which is the value of using CID's system to provide reliable water supplies.

In addition to the value of using CID's water system, there is a value for the water itself. CID's agricultural users are entitled to all the surface water that is delivered into the District, whether they take it directly from the canals or pump it with their wells. The cost of providing additional supplies to replace urban consumption would be based on market prices for water in this region of California. State water that is delivered through the California Aqueduct in the San Joaquin Valley and Central Valley Project water from the Friant-Kern Canal on the east side is frequently purchased and/or exchanged among eligible contractors. The cost to purchase a permanent supply in this market typically includes a one-time charge of \$3,000 per acre-foot plus an annual charge of approximately \$90 per acre-foot. The present value of the annual charge is \$1,763 per acre-foot. See Appendix A for an explanation of the present value factor used. Therefore, the total value of the water supply is \$4,763 per acre-foot ($\$3,000 + \$1,763$) or \$7,859 per acre ($\$4,763 \times 1.65$ ac-ft/ac).

The total value for water (\$7,859 /ac) and delivery (\$2,218 / ac) is \$10,077 per acre for land that is converted from agriculture with surface water irrigation to urban use. However, since not all of the agricultural land in CID is irrigated with surface water,

the value should be reduced by the proportion of land that uses surface water. Approximately 65% of the District (95,000 / 145,000 acres) is irrigated with surface water, so the per acre value for water and delivery is \$6,550 ($\$10,077 \times 65\%$). Using the same density of 3.75 housing units per acre that was used in the previous analysis of groundwater consumption, the cost per housing unit for water and delivery is \$1,747 ($\$6,550 / 3.75$).

Water usage for urban housing developments is relatively consistent because a significant increase in one factor is generally offset by an equivalent reduction of another factor. For instance, high density housing units have a greater number of people per acre and therefore greater indoor water usage per acre. However, high density housing typically has a smaller area of outdoor landscaping per acre than single family homes, so outdoor water usage per capita is less. Commercial urban development is much more variable than residential development. A strip mall with small businesses may have minimal water usage (versus a residential development) for indoor lavatories and small outdoor landscape strips. Conversely, a restaurant with a high volume of customers or a manufacturing plant that requires process water may have much higher usage than a residential development. Urban master planning generally assumes greater per acre water usage for commercial development than for residential development. For the purpose of determining a mitigation impact fee for commercial development, the residential cost for water and delivery of \$6,550 per acre is assumed to be a conservatively low median cost.

Operation and Maintenance

Many of the physical features associated with urban growth have an impact on the District's operation and maintenance (O&M) activities. These impacts are identified within the following five (5) categories: operation of irrigation facilities, operation of recharge facilities, maintenance of irrigation facilities, storm water operations, and maintenance required for city storm water discharges into CID's system.

Operation of Irrigation Facilities

Residential and commercial developments adjacent to District canals require fencing and gates to restrict public access and provide some measure of public safety. These barriers limit the District's access to its own facilities. Urban streets and sidewalks also limit the District's access compared to rural agricultural areas. For example, in an urban area a District operator may only be able to enter the canal right-of-way by opening a gate at a street crossing. He must then travel more slowly along a narrow right-of-way between the canal and a fence to reach a control structure where adjustments are needed. In a rural area the operator could take a more direct path to the same control structure using farm roads and he could access the canal right-of-way at a number of locations.

Pipelines that have been installed to replace open canals through urban areas can improve District access because the vehicle barrier of the canal itself has been removed. However, pipelines in urban developments are often located within rights-of-way that are also used for city green belts, bike paths, or alleys. Typically these types of areas also have fences that restrict the District's access. The control structures used for pipelines look different at the surface, but they are operated in much the same way as the structures used to control open canals. Operators must be able to drive to the structure to monitor the water level and make adjustments to the weir boards or control gates. These factors reduce an operator's level of efficiency by slowing his travel and reducing the area of the District that he can cover during his patrols.

Urban development brings more people in close proximity to CID's facilities. Consequently the amount of trash that accumulates in CID's canals increases directly with urban development. This requires more time and effort by District operators to access the canal structures and remove the additional trash that accumulates at bar screens and control structures.

Greater population near CID's facilities also results in more vandalism of the facilities. The vandalism that occurs during canal operation includes damaging canal banks, tampering with or damaging control gates and check boards, and placing debris in canals and structures. Canal bank damage is usually done by children flattening the slope of the bank to improve illegal ingress/egress, or attempts to illegally divert water from the canal. The District typically chains and padlocks the hand wheel operators on control gates in urban areas, but vandals cut the chains and locks and turn the hand wheels. At best, this results in a user's water delivery being interrupted until the problem is discovered. A more serious problem is when the gate is opened far enough to cause flooding. Debris placed in the canal that accumulates on bar screens at pipe culvert entrances must be manually removed by District operators. Vandalism of operating canals impacts the District's operations because it must be addressed immediately to prevent a canal bank failure or breach. The same type of vandalism can occur in rural areas of the District, but with much less population density, the amount of vandalism per unit of canal length is noticeably less.

District operators must increase the number of patrols they make along canals in urban areas to ensure that canal breaks or breaches are discovered before major flooding and damage occurs. Canal breaches that result in flooding of urban areas threaten public safety. On a dry summer day an unsuspecting motorists may fail to slow down for a street that has been inundated, lose control, and cause an accident. Some of CID's canals have large enough flows that a severe breach would flood an urban area quickly enough to cause significant damage. Canal breaches that occur in rural areas can also cause serious problems, but the consequences are typically

much less severe. Often the breach only results in the inundation of agricultural land and possibly a county road before the canal is shut down and the problem is resolved. Urban features such as homes, commercial buildings, landscaping, and public utilities sustain flood damage that is much more costly to repair than typical agricultural improvements such as orchards, vineyards, or row crops.

Another factor that delays District operators patrolling urban areas is that they come in contact with a greater number of homeowners or trespassers than they do in rural areas. As a public agency, the District has an obligation to respond to on-site issues raised by residents near the District's facilities. However, the additional amount of interaction with the public in urban areas inevitably slows down the operator and reduces his efficiency. As noted previously, urban development brings more people in close proximity to the District's facilities, and therefore the number of trespassing incidents that must be addressed by District operators is higher than it is in rural areas.

District staff has estimated that the operational time spent on a given unit of the system increases by 30% when the surrounding area changes from agricultural to urban land use.

Operation of Recharge Facilities

Recharge facilities include the CID canals and pipelines that are used to deliver available recharge supplies into CID's recharge ponds, and they include the recharge ponds themselves. The impacts urban development has on recharge operations are the same as the impacts noted previously for irrigation operation. Therefore, District staff's estimate of the additional operational time spent in urban areas (30%) would also apply for recharge operations.

Maintenance of Irrigation Facilities

Typical maintenance of CID irrigation facilities includes the repair and re-grading of earthen canal banks, weed control on canal banks and access roads, routine repairs

to structures and pipelines, repair of structure damage caused by vandalism, and graffiti removal. Maintenance of subterranean structures and pipelines are typically not impacted by urban development, but maintenance of surface facilities is impacted significantly.

When canal banks are repaired and re-graded, fences adjacent to the canal right-of-way can limit access space. In some instances the space limitations are such that the District must use manual earth moving methods versus motor operated equipment. This severely reduces the efficiency of the maintenance work and increases District labor costs. In rural areas, motorized maintenance equipment has access to the canal at nearly any location. In urban areas, the equipment may only be able to enter the canal right-of-way at a road crossing. This may necessitate construction of a temporary earthen access ramp, which adds time and expense to the maintenance operation.

Weed control on District rights-of-way in urban areas is more critical than in rural areas because of the risk of a fire spreading to urban structures. This results in the District having to disc rights-of-way more often than is needed in rural areas. Weeds and trash that are removed from District rights-of-way must be hauled away for disposal. In rural areas, weeds and certain types of trash can be gathered on site and burned by the District. These additional maintenance activities are caused solely by urban development near the District's facilities.

As noted previously, increased population density near CID's facilities results in more vandalism of those facilities. Vandalism repairs that can usually be deferred until the canals are not operating include graffiti removal, repair of metal structure lids, and repair of metal access gates.

District staff has estimated that maintenance expenses on a given unit of the system increase by 40% when the surrounding area changes from agricultural to urban land use.

Storm Water Operations

Storm water operations are necessary when cities discharge urban storm water into CID's canals. This typically occurs during the winter months when rain is most prevalent. When surplus water supplies are available for CID to deliver into its recharge ponds, the District's canal system is used for these deliveries. Recharge deliveries also typically occur during winter months. Therefore, when city storm water is discharged and CID's canals are already delivering recharge supplies, District operators must quickly make adjustments to the system to provide enough capacity for the storm water flows. This issue is not as critical for the storm water connections into CID's largest canals. For canals with limited capacity and numerous storm water connections concentrated in a relatively short section of the canal, the storm water flows require much more attention by District operators.

When rain is anticipated or falling the canal must be constantly patrolled to check the status of city storm water pumps and the levels of the canal. When only recharge water is being delivered, two patrols per day is adequate. Urban storm water conveys additional trash into the canal that must be removed at bar screens and structures.

All storm water operation expenses are due to city storm water that is discharged into CID's system. Therefore, 100% of these expenses are applicable to urban development impacts.

Maintenance Required for City Storm Water Discharges into CID's System

Storm water discharges (in years when recharge water is not available) inundates canals that might otherwise remain dry. The cycle of wetting and drying throughout the winter promotes more weed growth than would occur without the storm water. Subsequently, CID must implement additional weed control measures. Storm water that is discharged directly from city storm sewers (without a detention basin) conveys additional sediment into CID's system that must be periodically removed by the District. Also, pumped storm water inlets to CID's system typically have a high

discharge velocity and they are perpendicular to the canal flow. This can result in increased bank erosion that must be repaired. These maintenance issues are directly related to urban development and they increase CID's overall maintenance expenses. All maintenance expenses for storm water are due to city storm water that is discharged into CID's system. Therefore 100% of these expenses are applicable to urban development impacts.

Table 5 includes a breakdown of CID's actual budget expenses from fiscal year 2005-2006. Estimates have been made for the portion of O&M expenses attributable to irrigation, recharge, and storm water deliveries.

Approximately 92% of the annual operation expenses are for irrigation. For recharge operations, a single operator is capable of monitoring and controlling head gates and regulating pond levels throughout the District. Also, recharge deliveries only occur in wet years or years when surplus water supplies are available. Storm water operation occurs more or less every year, depending on the number of rain storms. District staff has estimated that operation expenses on a given canal are three times more when storm water is being discharged than when only recharge water is being delivered. However, only about 5% of the total length of the District's canals has to be patrolled regularly for storm water flows. Therefore, it has been estimated in Table 5 that on average 1% ($3 \times 5\%$ of total canal length \times 8% of total operation expenses) of annual operation expenses are for storm water flows and the remaining 7% are for recharge.

It is estimated that 95% of the annual Class A and Equipment Maintenance expenses are attributable to irrigation and recharge, and 5% are attributable to the maintenance that is needed as a result of city storm water discharges. Class B facilities are generally not used to convey storm water. Therefore no part of Class B Maintenance expenses are attributable to storm water impacts.

Table 5
CID Budget Expenses FY 2005-06

Item	Expense
Water Rights/Assessments	\$251,526
Administration	\$102,930
Administration - Salaries	\$347,618
Surveying	\$19,929
Insurance, Bonds Benefits	\$901,237
Operation for Irrigation (est. 92% of total expenses)	\$494,415
Operation for Recharge (est. 7% of total expenses)	\$37,619
Operation for Storm Water (est. 1% of total expenses)	\$5,374
Construction Projects	\$0
Class A Maintenance for Irrigation & Recharge (est. 95% of total expenses)	\$449,491
Class A Maintenance for Storm Water (est. 5% of total expenses)	\$23,657
Class B Maintenance	\$6,243
Equipment Maintenance for Irrigation & Recharge (est. 95% of total expenses)	\$137,821
Equipment Maintenance for Storm Water (est. 5% of total expenses)	\$7,254
Capital Items	\$21,020
Tools and Equipment	\$51,410
Water Storage System - Ponds	\$2,260
Miscellaneous	\$0
Total	\$2,859,804

Table 6 provides calculations for determining the additional O&M costs incurred by CID as a result of urban development. Budget expenses (Column 1) taken from the applicable categories in Table 5 were multiplied by the ratio of urban acreage to total acreage in CID and the percentage increase in O&M expenses estimated by District staff for urban areas (Column 2 – Column 3). The urban and total acreages used are the assessed acreages listed in Table 2, which is found in the *Assessment Revenue* section of the report. Maintenance expenses in Column 1 are the sum of corresponding Class A and Equipment Maintenance expenses from Table 5. The

portion of annual O&M costs attributable to urban impacts (Column 4) was then divided by the total urban acreage in the District to determine the annual per acre cost of urban impacts on O&M.

Table 6
Urban Impacts on CID O&M

Expense	FY 2005-06 Budget Expense (1)	Urban Impact Factor (2)	Existing O&M Factor (3)	Urban Impact Cost ¹ (4)	Annual Cost per Acre ² (5)
Irrigation Operation	\$494,415	1.3	1.0	\$9,894	\$0.97
Recharge Operation	\$37,619	1.3	1.0	\$753	\$0.07
Irrigation Facility Maintenance	\$587,312	1.4	1.0	\$15,671	\$1.54
Storm Water Operation	\$5,374	1.0	0.0	\$358	\$0.04
Storm Water Maintenance	\$30,911	1.0	0.0	\$2,062	\$0.20
Totals	\$1,155,631	-	-	\$28,739	\$2.82

¹ Urban Impact Cost = Column (1) x [Column (2) - Column (3)] x Percentage of urban acreage in CID (10,179/152,592=6.7%)

² Annual Cost per Acre = Column (4) / urban acreage in CID (10,179)

The total annual cost for all categories in Table 6 is \$2.82 per acre. The present value of this annual amount is \$55 per acre. See Appendix A for an explanation of the present value factor used. In the *Groundwater and Water Supplies* section of this report a value of 3.75 single family housing units per acre is established as a typical housing density in CID. Using this housing density, the cost of urban impacts on District O&M is \$15 per housing unit (\$55 / 3.75).

Urban Storm Water

As noted in the *Groundwater and Water Supplies* section of the report, agricultural land in CID typically does not drain a significant percentage of local storm water offsite, because the topography is generally flat and the sandy soils quickly percolate surface water. Urban development, which includes the addition of impervious surfaces such as roofs and street paving, reduces percolation and requires the storm water to be collected and disposed in basins or in irrigation channels that are not in use or not operating at capacity. Use of CID's channels for this purpose impacts CID's ability to deliver imported surface water into its recharge basins and requires CID to maintain adequate capacity downstream of the storm water connections into its system.

Table 7 is a listing of the urban storm water connections into CID's system. The maximum flow rate of these connections vary based on their configuration. Gravity connections where runoff is collected near the street surface and then allowed to drain into CID's canal are generally limited by the size of the drain inlet. Discharges from storm water pumps that are located in collection sumps or detention basins can have much greater flow rates depending on the size and number of pumps that are used. The estimated average discharge rate of the storm water connections that are identified in Table 7 is 3 cfs. Therefore, the total available capacity that CID must maintain in its system for storm water connections is 111 cfs (3 cfs x 37 connections).

Table 7
City Storm Water Connections to CID's System

CID Facility Name	Number of Storm Water Connections
Fowler Switch Canal	5
Kirby Ditch	1
Iowa Ditch	1
C&K Canal	1
Cole Slough Canal	1
Ross Ditch	1
Kingsburg Branch Canal	1
Selma Branch Canal	16
Walnut Ditch	2
Lone Tree Ditch	7
Rockwell Pond	1
Total	37

CID's water system has the flexibility to manage storm water in a number of ways depending on the location and volume of a given discharge. Relatively small discharges into large unlined canals will typically percolate in the bottom of the canal. Discharges upstream of CID's recharge basins can be delivered into the basins using CID irrigation channels and pipelines. The Ward Drainage Canal is located within a naturally low swale, beginning east of Selma and ending southwest of Kingsburg near Cole Slough. The bottom of the Drainage Canal is very sandy and water percolates rapidly along its length. Discharges into the C&K system can be diverted to the Ward Drainage Canal for groundwater recharge. A significant volume of water can be stored and percolated in the CID canals that are not needed to deliver recharge water.

Analyzing specific locations of storm water connections and how the discharges are managed by CID is beyond the scope of this report. However, the value of CID's system capacity that must be available to receive storm water discharges can be determined as follows. The total design capacity of CID's three main channels is

2,650 cfs (C&K = 1,400 cfs + Fowler Switch = 1,100 cfs + Lone Tree = 150 cfs). Therefore, the fraction of this capacity that must be available for city storm water is 4.2% (111 cfs / 2,650 cfs). Nearly all of CID's canals and recharge ponds can accept storm water, so the capacity fraction should be multiplied by the total replacement value of the system, less the portion that is upstream of the first storm water connections in Sanger.

The replacement cost of CID's water system is presented in the tabulation in Appendix C. An explanation of how the replacement value was determined is included in the *Groundwater and Water Supplies* section of the report. District facilities that are not necessary for accepting storm water were tabulated but their costs were excluded from the total. The applicable total estimated replacement cost of CID's system is approximately \$374-million.

Multiplying the applicable replacement cost by the fraction of capacity that is needed in CID's system results in a value of approximately \$15.7-million (4.2% x \$374-million). The total area of city land that is currently assessed by CID is 10,197 acres (See Table 2). Therefore, the value of using CID's system is \$1,540 per acre (\$15.7-million / 10,197 acres) at the current level of urban development. In the *Groundwater and Water Supplies* section of this report a value of 3.75 single family housing units per acre was established as a typical housing density in CID. Using this housing density, the value of using CID's system for storm water from future residential developments is \$411 per housing unit (\$1,540 / 3.75).

In addition to the proposed impact fee for accepting storm water into CID's system, the following policies and design standards should be established. All new connections shall include a basin with adequate volume to retain storm water from at least a 10 year storm event. Basins shall be designed to provide sedimentation and removal of typical urban drainage contaminants. It shall be the sole responsibility of the city to ensure that water quality standards for storm water discharges are maintained. It shall be the sole responsibility of the city to provide any regulatory

water quality monitoring that is required for storm water discharges. Cities continuing to operate existing storm water connections or applying for new connections shall indemnify CID against damages (including regulatory fines) that result from contaminants in storm water discharges exceeding quality standards. Where it is determined by CID that a city requires significantly more than 4.2% of CID's local system capacity, additional site specific mitigation shall be required. For example, if the storm water discharges into a local CID channel require more than half of that channel's total design capacity, CID may require that the storm water basin for a new development be designed to retain more than a 10 year storm event, or that the new development include downstream capacity improvements to CID's local system.

Impacts to CID from urban storm water are unique compared to the other impacts identified in this report in that the impacts can conceivably be mitigated by a new development retaining 100% of its storm water on site. Therefore, in establishing an urban storm water policy with local cities, CID might consider waiving this fee if a developer and city can adequately demonstrate that all storm water will be retained on site. The pitfall with this approach is that city storm water systems and their operation can be complex, with multiple basins connected by pipelines, pump stations, and control structures. For example, a new development might include a basin that could retain a 100 year storm event with no direct or indirect connections from the new basin to the District's canal system. CID agrees to waive the storm water mitigation fee for the development. Years later the City decides to connect the basin to other city storm water facilities to improve operational flexibility or utilize the capacity in the basin for another development. Now storm water from the original development can be moved off site and potentially discharged into CID's system through a pre-established connection. For CID's storm water impacts to be mitigated the District will have to maintain a clear understanding of each city's storm water system and track all modifications cities make to their systems.

Rehabilitation & Betterment of CID Facilities

District staff have identified locations within the water system where it is most critical that improvements be made to mitigate the impacts of local urban development. These rehabilitation and betterment (R&B) projects would serve to improve public safety and aesthetics, and would improve the operational efficiency of the District in those areas. Staff has also identified potential capital projects that would increase the recharge capacity of the system to help offset urban impacts on groundwater.

Following are brief descriptions of each project, which are separated into the two categories and numbered. Appendix D includes corresponding cost estimates and location maps (Plates D-1 through D-5) for each project. A 40% contingency is added to the subtotal of estimated costs for each project. Contingencies include engineering and administration costs, and allowances for inflation and unforeseen changes in the project scope. A 40% contingency is considered appropriate for feasibility level cost estimates.

Also included in Appendix D is a benefit / cost (B/C) analysis for the recharge capacity improvement projects. Safety and efficiency improvement projects have benefits and value in terms of public safety and aesthetics that are not easily quantified for a B/C analysis. These projects generally involve undergrounding existing open canals in critical urban areas where there is little chance of the projects being conditioned on a future development. The boundaries and scope of these projects are easily defined so there are no marginal components for any given project that could be removed to improve its B/C ratio. No B/C analysis is presented for these projects, but the relative costs of the projects are considered feasible for the mitigation of urban impacts. Recharge capacity improvement projects have a less defined scope because there are any number of projects that could improve recharge capabilities if costs were not considered. Recharge projects that were initially identified, but later determined to have poor B/C ratios, were eliminated from the study.

Safety and Efficiency Improvement Projects

1. Piping of 84 Ditch along Highland Avenue

Intermittent urban development has occurred in Selma along Highland Avenue, on both the north and south sides of Golden State Boulevard. On the west side of Highland Avenue, the District's 84 Ditch runs parallel along the south side of Dinuba Avenue. It then turns south for ¼ mile, then east back to Highland, then south along the west side of the road. After crossing Golden State, the ditch turns southwesterly and is partially piped through the parking lot of Home Depot. There are currently at least three separate sections of open canal between sections of pipeline that have been installed during recent developments. The open sections are along properties that were developed many years ago so there is little chance of new development on those lands that would be conditioned with piping the open ditch in the future. The total length of the open sections is approximately 3,150 feet and the pipe needed is 72-inch diameter rubber gasket reinforced concrete pipe (RGRCP).

2. Piping of Lone Tree Channel between Church and Annadale Avenues

Intermittent urban development has occurred in Sanger along the Lone Tree Channel between Church and Annadale Avenues. Between the Church Avenue alignment and 8th Street there are existing and proposed housing developments on the north and west sides of the canal that were not required by the City to pipe the canal. Between 9th Street and Annadale Avenue most of the Lone Tree is open canal. On the west side there are existing homes and on the east side the land is currently being developed for homes, with no requirement for piping the canal. There are already issues of limited access and increased trash in the canal adjacent to the existing homes, and the new developments will add to the length of canal that is subjected to these issues. The total length of the open sections is approximately 5,850 feet. The upper section is 3,850 feet long and the pipe needed is 84-inch RGRCP. The lower section is 2,000 feet long and the pipe needed is 72-inch RGRCP.

3. Piping of Lone Tree Channel between Upper Garfield Ditch and Railroad

A housing development is currently proposed in Sanger, south of North Avenue and between the Lone Tree Channel and the C&K Canal. The upper part of the Garfield Ditch runs along the south border of the proposed development. CID has requested and it is assumed that the City will condition the approval of the development on piping the Lone Tree along the west side of the development and piping the Upper Garfield along the south side. This configuration would result in a short section of the Lone Tree remaining as an open canal along Muscat Avenue, between the Upper Garfield Ditch and the railroad. There is an existing commercial development on the north side of Muscat and agricultural land on the south side. When the aforementioned housing development to the northeast is complete, this section will be one of two remaining open sections of the Lone Tree in the south part of Sanger. It will be inefficient for CID to operate and it will be adjacent to urban development in all directions except the south. The total length of the open section would be approximately 1,300 feet and the pipe needed is 72-inch diameter RGRCP.

4. Piping of Highland Ditch between Lone Tree Channel and C&K Canal

This section of open canal currently has agricultural land on both sides, but after completion of the housing development and piping of the Lone Tree noted in Item 3, it will become another short section of open canal near urban development. It will be inefficient for the District to operate and maintain and the nearby urban development will increase the risk to public safety. The total length of the open section is approximately 1,250 feet and the pipe needed is 60-inch diameter RGRCP.

5. Piping of Lone Tree Channel between Muscat and Academy Avenues

West of the railroad, the Lone Tree Channel is piped along Muscat Avenue. At the headworks for the lower part of the Garfield Ditch, the Lone Tree turns southwest and changes to open canal until it crosses Academy Avenue. The Lower Garfield is piped along Muscat Avenue to the west side of Academy Avenue. There is an existing commercial development at the southeast corner of Muscat and Academy Avenues and the open section of the Lone Tree runs along the southeast border of

this property. The land on the opposite side of the Lone Tree is currently vacant (no agriculture or urban development). When the housing development noted in Item 3 is complete, this section will be the second of two remaining open sections of the Lone Tree in the south part of Sanger. It will be inefficient for the District to operate and maintain and the nearby urban development will increase the risk to public safety. The total length of the open section is approximately 750 feet and the pipe needed is 60-inch diameter RGRCP.

6. Piping of Selma Branch Canal between Stillman Street and McCall Avenue

The Selma Branch Canal is currently open canal from the south side of Lincoln School to McCall Avenue and Highway 99. The southerly 2/3rds of this section is located within long established urban development within Selma. There are numerous bridge crossings of the canal for the city streets. The canal is inefficient for the District to operate and maintain, and the urban development all around the canal poses a risk to public safety. Selma has indicated the upper portion of this reach (north of Stillman Street) may be piped by the City through grant funding. The remaining length of open canal south of Stillman is approximately 4,700 feet and the pipe needed is 84-inch RGRCP.

7. Canal Monitoring System

As discussed in the *Operation and Maintenance* section of the report, monitoring the operation of canals is more critical in urban areas than rural areas because the potential damage caused by a bank failure or breach would be so much greater. A monitoring system that would allow CID's operators to have constant updates of the canal water levels at key locations would significantly lessen the risk of a canal breach in an urban area or the damage that might be caused if it occurred. If the level at a given monitoring location exceeded an alarm set point, the operator would automatically be called to investigate the problem and make adjustments to the canal as needed. Following is a list of sites that have been identified by District staff where monitoring stations would significantly reduce the increased risk caused by urban

development. A central console at the District office would also be needed to manage the data transmitted from the remote stations.

No.	Canal Name	Site Description
1	Fowler Switch	Below Greenwood Ave.
2	Fowler Switch	1 st drop structure below Jensen Ave.
3	Fowler Switch	2 nd drop structure below Jensen Ave.
4	Fowler Switch	Drop structure below 84 Ditch
5	Fowler Switch	Below Manning Ave.
6	84 Ditch	Below Dinuba Ave, west of Highland Ave
7	84 Ditch	Above Home Depot (Selma)
8	C&K	C&K below North Ave.
9	C&K	C&K below 8 th Street
10	Cole Slough	Above Conejo Ave.
11	Cole Slough	Below Conejo Ave.
12	Santa Fe	Above Manning Ave.
13	Kingsburg Branch	Check structure west of Academy Ave., south of South Ave.
14	Kingsburg Branch	Above Stroud Ave.
15	Paladina	Below canal lining parallel to Magnolia Ave.
16	Selma Branch	Above Evergreen Ave.
17	Selma Branch	Above Thompson Ave.
18	Hatch	Above Mt. View Ave., west of McCall Ave.
19	Lone Tree	Above 8 th Street
20	Lone Tree	Above Annadale Ave.
21	Lone Tree	East of Academy Ave.

Recharge Capacity Improvement Projects

The majority of CID's total water delivery capacity is divided between the Fowler Switch and C&K Canals. Most of the District's recharge ponds are located in the westerly part of the District, along the Fowler Switch Canal or laterals off the Fowler Switch. This essentially limits the total recharge deliveries to the capacity of the Fowler Switch Canal. There are several ponds that can be served through the C&K Canal, but only a small portion of the C&K's flow capacity is ever used for recharge

deliveries. In general, the west side ponds served through the Fowler Switch Canal have the capacity to percolate more water than can be delivered. The addition of new recharge ponds that could be served through the C&K or Lone Tree systems would increase the overall capacity for recharge deliveries. In selecting possible locations for new ponds off the C&K, consideration must also be given to the proximity of the Kings River. Ponds located along the easterly and southerly boundaries of CID would provide little if any benefit to groundwater recharge because imported water that was percolated in the ponds would migrate toward the river versus migrating toward the urban and agricultural areas where it is needed for additional supplies. Therefore, feasible R&B projects for improving recharge capacity include new recharge ponds at appropriate locations off the C&K and Lone Tree systems, and new or modified facilities to allow deliveries through the C&K and Lone Tree to be diverted into west side ponds that currently can only be served through the Fowler Switch.

The estimated land costs for recharge ponds would vary depending on location. It is assumed that average land costs for new ponds would be higher than the estimated replacement costs presented in Appendix C for canal, pipeline, and pond rights-of-way. Development of new pond sites with levees and water delivery structures would require that the land be purchased by CID in fee title. Blocks of land would be acquired for the pond sites and the owners would relinquish all rights to use or develop the land. By contrast, canal and pipeline rights-of-way are narrow strips of land that generally run along parcel boundaries. When an owner grants a right-of-way for a canal or pipeline, typically only a small part of the parcel's usefulness is relinquished. Many of the District's existing ponds are located within natural depressions that can flood during wet periods even without the delivery of recharge water. These lands are marginal for farming purposes or urban development, so their replacement value is also assumed to be lower than the land cost for new pond sites. Actual prices for land within CID that has recently been purchased for housing developments have approached \$100,000 per acre. In selecting proposed locations for new pond sites, a sufficient distance from existing city limits was maintained so the land costs would presumably be less. Based on these considerations, an

average cost of \$25,000 per acre was used for the applicable estimates presented in Appendix D.

8. Recharge Ponds off Cole Slough Canal between Jefferson & Lincoln Avenues

New recharge ponds at the left and right banks of the Cole Slough Canal, between Jefferson and Lincoln Avenues, would provide recharge benefits in the region between Sanger and Parlier. The sites are far enough from the bluff of the Kings River that the groundwater gradient does not run toward the river. The area off the right bank is approximately 7 acres, the area off the left bank is approximately 30 acres, and the soils for both sites are very sandy. To implement the project, CID would need to purchase the property and construct levees and turnout structures from the Cole Slough Canal.

9. Santa Fe Pond Enlargement

The District's Santa Fe Pond is located at the headworks of the Santa Fe Ditch, between Adams and Sumner Avenues. The pond could be expanded to the south by an additional 60 acres. To implement the project, CID would need to purchase the property and construct levees.

10. Recharge Pond at Kingsburg / Selma Branch Canal Divide

A new recharge pond at the divide of the Kingsburg and Selma Branch Canals, between Adams and Sumner Avenues, would provide recharge benefits upslope of Selma, Parlier, and Kingsburg. The area of the proposed site is approximately 150 acres. To implement the project, CID would need to purchase the property and construct levees and a turnout structure. The pond would provide a secondary benefit of capturing spills during irrigation operations. This would be particularly helpful to the operations of the Kingsburg Branch Canal, which currently has no available spills, and would reduce the risk of canal breaches in Kingsburg.

11. Recharge Pond off Kingsburg Branch Canal north of Huntsman Avenue

A new recharge pond at the right bank of the Kingsburg Branch Canal, north of Huntsman Avenue would provide recharge benefits upslope of Selma and

Kingsburg. The area of the proposed site is 10 acres. There is an existing depression at the site, but development of a pond would still require land acquisition, grading and levee construction. A pond at this site would also provide a secondary benefit of capturing operational spills from the Kingsburg Branch Canal.

12. Ward Drainage Canal Capacity Enlargement

The Ward Drainage Canal begins at Huntsman Avenue, east of Selma, and ends near the Cole Slough branch of the Kings River in Kings County. The canal is located within a natural depression that collects surface drainage and it is not utilized for irrigation deliveries. Recharge deliveries can be made to the Ward Drain through the Kingsburg Branch of the C&K Canal. Portions of the Ward Drain are piped and portions are open canal. The portions that are open canal are very sandy and able to rapidly percolate the drainage that is collected. The recharge capacity of the Drain is limited by a series of east-west road crossings east of Selma. Enlarging these road crossings and constructing check structures at three specific locations (above & below Nebraska Avenue and above Mt. View Avenue) would increase both the flow capacity and the volume of water that can be diverted to the Drain for recharge. It is estimated that an additional 4 acres of the drain could be wetted with these improvements.

13. New Recharge Pond off Ward Drainage Canal north of Floral Avenue Alignment

At the headworks of the Ward Drainage Canal there is an existing winery along the south side of Huntsman Avenue. South of this property there are approximately 60 acres of vacant land on each side of the Drain. A new recharge pond at this location would provide recharge benefits upslope of Selma and Kingsburg. If the first 650 feet of the Drain were piped, it would allow the Drain to flow into the new pond at the north end and spill into the existing Drain at the south end. Development of the pond would also require land acquisition, grading, and levee construction. A check structure at the pond outlet would control spills into the downstream portion of the Drain. The upstream piping would need to be 60-inch diameter RGRCP.

14. New Recharge Pond off Fowler Switch between Sumner and South Avenues

A new recharge pond at the right bank of the Fowler Switch Canal, between the Sumner Avenue alignment and South Avenue would provide recharge benefits upslope of Selma and Fowler. The East Kirby Ditch is diverted from the C&K Canal and spills into the McCall Ditch 1½-miles east of the pond site. The McCall Ditch, which is diverted from the Lone Tree Channel, continues west from the Kirby spill and spills into the Fowler Switch Canal at the south end of the pond site. If Fowler Switch recharge deliveries were diverted into the new pond, it would free up additional capacity in the Fowler Switch, downstream of South Avenue. Recharge supplies delivered through the C&K Canal and Lone Tree Channel could be added to the Fowler Switch at South Avenue via the Kirby and McCall spills. The net result would be up to 50 cfs of additional recharge flow capacity created and an additional recharge site upslope of Selma and Fowler. The area of the proposed site is approximately 40 acres. To implement the project, CID would need to purchase the property and construct levees and a turnout structure.

15. New Pipeline Connection from Elkhorn Ditch to Davis Pond

The Davis Pond is located at the northeast corner of Mountain View and Cedar Avenues. The Davis Ditch is located a short distance north of the pond and currently all recharge deliveries into the pond are diverted from the Davis Ditch. The Davis Ditch does not have flow capacity to keep the Davis Pond full. The Elkhorn Ditch is located south of Davis Pond and Mountain View Avenue. The nearest distance between the pond and Elkhorn Ditch (measured along existing parcel lines) is approximately 2,700 feet. The Elkhorn is a much larger channel than the Davis Ditch and has capacity available to serve an additional pond(s). A pipeline connection from the Elkhorn Ditch to Davis Pond would allow the pond to be used to its full recharge potential. The pipeline that is needed would be 48-inch RGRCP. The project alone would not increase the District's total recharge capacity. However, if it is implemented together with another project (such as Project No. 14) that frees up Fowler Switch capacity west of Highway 99, it would contribute to an overall increase in recharge capacity. Additional groundwater recharge southwest of Highway 99 is

arguably less beneficial than it is northeast of 99. However, by adding to the available groundwater supplies at this location, the groundwater gradient down slope of 99 would be less steep, resulting in higher groundwater levels along 99.

Table 8 is a summary of the estimated project costs presented in Appendix D. The total cost of all the projects identified is approximately \$26-million. A 20 year horizon is considered feasible for implementing the R&B projects identified for mitigating urban impacts. Based on the average rate of urban growth in the District during the past five years (see Table 3 in *Assessment Revenue* section of report), the estimated acreage of new urban development over the next 20 years would be 5,420 (271 acres per year x 20 years). Based on the groundwater impact of urbanization that was determined in the *Groundwater and Water Supplies* section of the report, the volume of additional recharge that would be needed after 20 years would be 5,813 acre-feet per year (1.65 ac-ft/acre x 5,420 acres x 65% of CID land irrigated with surface water). The total acreage of the recharge capacity improvement projects that are identified is 361. In the B/C analysis presented in Appendix D it is estimated that an average annual volume of 23 acre-feet per acre can be recharged through CID's ponds. Therefore, the total recharge potential of the applicable R&B projects is 8,303 acre-feet per year (361 acres x 23 ac-ft/acre). This indicates that the additional recharge needed to offset the groundwater impacts from new development is only 70% (5,813 ac-ft/year needed / 8,303 ac-ft/year provided) of the total recharge capacity provided by the R&B projects. The total capital cost of the recharge projects should therefore be reduced by this proportion in order to quantify the appropriate mitigation. With this adjustment the total cost of the urban R&B projects identified is \$21.0-million (\$9,274,000 + 16,780,000 x 70%).

For the urban R&B projects to be funded through mitigation fees over that period, the fee amount needs to be \$3,875 per acre (\$21.0-million / 5,420 acres). In the *Groundwater and Water Supplies* section of the report a value of 3.75 single family housing units per acre is established as a typical housing density in CID. Using this value, the mitigation cost for R&B of applicable CID facilities is \$1,033 per housing unit.

Table 8
R&B Projects Summary

Safety & Efficiency Improvements		Recharge Capacity Improvements	
No.	Cost	No.	Cost
1	\$1,518,000	8	\$1,743,000
2	\$3,161,000	9	\$2,590,000
3	\$622,000	10	\$6,048,000
4	\$534,000	11	\$574,000
5	\$310,000	12	\$231,000
6	\$2,653,000	13	\$2,909,000
7	\$476,000	14	\$1,820,000
		15	\$865,000
Subtotal	\$9,274,000	Subtotal	\$16,780,000
		Total	\$26,054,000

Proposed Impact Fee

Table 9 summarizes the per acre and per housing unit impact fees that have been determined in the applicable sections of this report.

Table 9
Proposed CID Impact Fees

Impact	Cost per Acre	Cost per Housing Unit
Assessment Revenue	\$147	\$39
Groundwater & Water Supplies	\$6,550	\$1,747
Operation & Maintenance	\$55	\$15
Urban Storm Water	\$1,540	\$411
Rehabilitation & Betterment	\$3,875	\$1,033
Totals	\$12,167	\$3,245

It is proposed that the total per acre fees be imposed uniformly throughout CID for new commercial developments and the total per housing unit fees be imposed uniformly throughout CID for new residential developments. In the *Groundwater and Water Supplies* section of the report, there is a discussion about the water use of residential versus commercial development. Assuming that average commercial water use is equal to residential usage provides a conservatively low estimate of commercial usage. Therefore, the per acre mitigation fee calculated for residential groundwater and water supply impacts is a conservatively low fee for commercial development. Other impacts to the District, which have been identified, are assumed to be approximately equal (on a per acre basis) for commercial or residential development.

In the *Urban Storm Water* section of the report there is a discussion regarding the possibility of CID waiving storm water impact fees under certain circumstances. If the District elected to use this approach, the portion of the total fees attributable to urban storm water could be deducted. All other components of the total fees would apply uniformly throughout the District regardless of project specific provisions.

by relatively low water rates because of their water rights and the investment they have made in the District's delivery system through decades of paying assessments. It would be grossly inequitable for new urban developments to receive the same benefits as the growers (in terms of water rates) without any water entitlement for imported supplies or any investment in the infrastructure needed to deliver those supplies.

2. The assessment revenue impact fee should depend on the type of CID water service provided to the land before urban development.

In calculating the proposed impact fee, the rate was normalized to represent CID's average loss of revenue regardless of the type of CID water service provided to the land.

3. Converting land from agricultural to urban use frees up CID surface water supplies for use elsewhere in the District, thereby offsetting the impacts on groundwater.

Only CID's agricultural users within the District's boundaries are entitled to the surface water that CID diverts, whether they use it directly from CID's canals or pump the groundwater that CID provides through recharge. It cannot be assumed that surface supplies no longer delivered to certain lands will be utilized in ways that will offset the groundwater impacts of urban development. Those supplies may be used down slope in the District (from the original land) and the benefits to groundwater recharge are lessened or negated.

4. Groundwater impact fees should depend on the type of CID water service provided to the land prior to the urban development. Since agricultural land that uses only groundwater for irrigation consumes about the same amount of groundwater as urban land use, there should be no impact fee for these lands.

In calculating the proposed impact fee, the rate was normalized to represent the average impact on land throughout the District regardless of the type of CID water service provided to the land. Setting different impact fees on lands irrigated with

surface water versus lands irrigated with only groundwater could influence developers to avoid certain areas with a higher impact fee. This could have negative effects on overall city development, resulting in "islands" of undeveloped land or developers simply avoiding cities in CID where a higher impact fee applied. Varied impact fees would also burden the District with having to determine the division lines of water service, which might cross through a given development tract. A single uniform fee provides the least opportunity for developers to manipulate implementation of the impact fees.

5. Storm water impact fees should depend on the site specific conditions. A storm water connection to a large CID canal has much less impact than a connection to a smaller canal where downstream capacity may be limited.

Site specific storm water impact fees would require the District to analyze the value and capacity of its local system for each new connection. This approach might encourage developers to challenge CID's analysis and subsequent requirements in order to reduce project costs. As noted earlier, varied fees could have a negative influence on overall city development, resulting in "islands" of undeveloped land or developers avoiding cities in CID where a higher impact fee applied. A uniform storm water rate is advantageous to planners and developers in that much or all of the mitigation requirements can be determined as soon as the acreage or number of homes is identified. Site specific fees would require that the District analyze and identify the mitigation requirements during conceptual planning phases of projects that might never develop.

6. Mitigation fees should cover impacts to the District and site specific improvements that are required for CID's system.

Relevant
The impacts identified in this report can occur anywhere in the District and they are generally independent of site specific issues. Mitigation of site specific impacts includes items such as replacement of an existing CID pipeline or canal with a new pipeline suitable for urban areas. Construction projects such as this can be included with the other improvements for the development. The developer consults with the

District regarding the specific requirements and standards that must be met, and then submits plans for District review. Once the plans are approved, the developer contracts for the construction of the project and the District verifies through periodic inspections that the new facilities are in accordance with the District's standards.

If the costs to modify CID's facilities for new urban developments were included in the mitigation fees, the District would essentially have to master plan the improvements to its system in conjunction with city development planning, and the fees would have to be large enough to capture the estimated costs of the improvements. Currently there are no administrative mechanisms within CID (or presumably within the city governments in the District) that are available to manage this type of coordination. Development projects are inherently uncertain because they are often based on projections of market conditions which can quickly change. As such, there would be a large margin of error in determining the mitigation fee amounts. If markets slow and planned developments are shelved or canceled altogether, the mitigation fees would have been set far too high to cover the cost of improvements that ultimately were not needed. Conversely, if urban growth spreads further than predicted, the fees will not be sufficient to cover the cost of the needed improvements.

Even if a "crystal ball" were available to accurately determine future urban growth, CID would have to add staff or contract with engineering consultants for design, bidding, and contract administration of the construction projects. Given the current level of urban growth in the District, this would be a major departure from the traditional involvement the District has had in urban development. And the additional costs for this work would also have to be included in the mitigation fees.

Determining what the mitigation fees might be if site specific improvements were included would require a more extensive study than has been presented in this report because of the aforementioned need to master plan district-wide improvements. The District would have to estimate project costs and subsequent fees conservatively high in order to cover its obligations to provide the site specific improvements. A

rough estimate is that a fee (uniform throughout the District) would need to be at least 3 to 4 times as much as the total impact fee proposed in this report.

The above considerations probably identify only a small part of the difficulties that would ultimately be experienced if site specific improvements were to be included in the mitigation fees. It is strongly recommended that this method of mitigating impacts not be employed.

7. Urban development impacts on CID are not the same for each city. Why should development in a city where the impacts are minimal have to pay the same fees as a city who's urban development causes much greater impacts?

Urban development at any location in the District will impact the rest of the District in some way. Admittedly, each type of impact at a single location may not effect every acre of the District, but each urban development project will effect the rest of the District in some way.

The depth to groundwater in the Sanger area is typically shallow and the levels do not drop as significantly during dry periods as they do in the western part of CID. This is primarily because of geology and Sanger's proximity to the Kings River. Also, there is less agricultural or urban development upslope of Sanger. Groundwater that migrates laterally from the upper areas of the Kings River watershed is largely unused as it moves toward Sanger. Therefore, a developer in Sanger might argue that even though an urban development will consume more groundwater, it will not significantly lower the groundwater table in the Sanger area. However, when more groundwater is extracted in Sanger, there is less water available to replenish supplies in areas down slope of Sanger through lateral migration. This results in lower groundwater levels southwest of Sanger and a steeper groundwater gradient down slope of Sanger.

The impact fees that are proposed have been calculated to address impacts on the District as a whole. Typical median values were presented for each impact identified versus analyzing the most extreme cases and then extrapolating the costs

throughout the District. Mitigation of each impact has a calculable value, but CID mitigation fees will also provide incalculable benefits to all urban residents in the vicinity of CID. Groundwater mitigation fees used by CID to replace groundwater diverted by a new development in Sanger will help to maintain groundwater levels in Fowler and Selma and maintain the subsequent pumping costs to those cities, which are passed on to residential and commercial users through their domestic water bills. Given these types of considerations, a uniform mitigation fee is practical and it is warranted.

Mitigation Fee Act Findings

The proposed impact fees are one-time fees that would be imposed on development projects by whichever city in the District was permitting the project. In 1987 Assembly Bill 1600, known as The Mitigation Fee Act (the Act), was adopted by the State Legislature and is contained with subsequent amendments in *California Government Code* Sections 66000 through 66025. The Act establishes the requirements on local agencies that impose and administer fee programs. The Act requires agencies to document five findings when adopting a fee. This section of the report documents the five statutory findings that are required for adoption of the proposed fees and provides references to the previous sections of this report which support the findings.

- *Identify the purpose of the fee (§66001(a)(1)).*

Development impact fees are designed to ensure that new development will not burden the existing service population with the cost to accommodate growth. The fees proposed in the study provide a funding source from new development to:

- Offset CID's loss of assessment revenue that results when lands are detached from the District for new urban development (p.6).
- Offset the increase in CID's operation and maintenance (O&M) costs resulting from new urban development (pp.20-25).
- Dispose of the additional urban storm water that is generated by new urban developments (pp.28-29).
- Secure water supplies to replace water diverted by new urban developments (p.18).
- Improve CID infrastructure where new urban development diminishes public safety and District operating efficiency (pp.33-36).
- Develop additional CID infrastructure to deliver water supplies for groundwater recharge to replace water diverted by new urban developments (pp.38-40).

- *Identify the use to which the fees will be put. If the use is financing facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in §65403 or §66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify facilities for which the fees are charged (§66001(a)(2)).*

The fees proposed in the study would be used to mitigate the specific categories of impacts noted in the study. Table 9 (p.43) indicates the proportion of the total fees attributable to the mitigation of each impact. A portion of the fees would be used by CID to offset the District's loss of assessment revenue and increased O&M costs. A portion of the fees would be used by CID to dispose of the urban storm water generated by new urban developments. A portion would be used to secure water supplies needed to replace water diverted to new urban developments and deliver those supplies through CID's system of canals and recharge ponds. A portion would be used for capital improvements to CID's infrastructure that would improve public safety and operating efficiency in critically impacted urban areas. A portion would be used for capital improvements that would increase the District's groundwater recharge capacity. Details of these capital improvements are provided in the section of the report entitled *Rehabilitation and Betterment of CID Facilities* (p.32).

- *Determine the reasonable relationship between the fees' use and the type of development project on which the fees are imposed (§66001(a)(3)).*

The fees would be used in various ways by CID to mitigate impacts to CID that are caused by new residential and commercial urban developments. These types of developments detach land from the District which results in a loss of CID assessment revenue (p.5). The change in the landscape that is caused by urban development reduces CID's O&M efficiency resulting in increased CID costs (pp.20-25). Urban developments create additional storm water by increasing the area of impervious surfaces compared to agricultural land. Cities in the District rely on CID and its

system of canals and ponds to dispose of the additional storm water (p.28). Urban developments consume more groundwater than agricultural land irrigated with imported surface water, so new water supplies must be secured and delivered into the District to reduce the overdraft of groundwater (p.18). To utilize these additional supplies for groundwater recharge, the capacity of CID's recharge system must be increased through capital improvements (p.36). Urban developments bring more people in closer proximity to CID's canals, thereby increasing the threat to public safety and reducing CID's operating efficiency. In certain critical areas, additional urban growth necessitates capital improvements to mitigate these impacts to an acceptable level (p.32).

- *Determine the reasonable relationship between the need for the public facilities and the types of development on which the fees are imposed (§66001(a)(4)).*

Urban development detaches land from the District and reduces CID's primary source of revenue, which is acreage assessments (p.5). Less land to service does not result in a proportional reduction in District operating costs. For the District to continue providing the same level of service to its constituents it is necessary to offset this loss of revenue by imposing fees on new urban developments.

One of the District's primary services is to deliver imported surface water into the area for groundwater recharge (p.8). These efforts significantly reduce the amount of overdraft that is occurring in the groundwater basin (p.10). Urban development results in higher consumption of groundwater versus agricultural land that is irrigated with imported surface water (p.14). To mitigate the additional groundwater consumption when agricultural land is converted to urban use, it is necessary for additional imported supplies to be purchased and delivered for recharge through the District's system of canals and ponds (p.16). Capital improvements are needed to increase CID's recharge capacity, so the additional supplies can be used for groundwater recharge (pp.36-37).

Urban development reduces CID's O&M efficiency and increases CID's costs (pp.20-25). For the District to continue providing the same level of service to its constituents it is necessary for these increased costs to be mitigated by new urban developments.

One of the primary services that cities (and counties) provide for residential and commercial development is the collection and disposal of urban storm water. Cities in the District rely on CID's system of ditches and ponds to dispose of urban storm water that is collected (p.28). If it is necessary for new urban developments to discharge their storm water into CID's system, then the District must be compensated for the use and operation of its system (p.30).

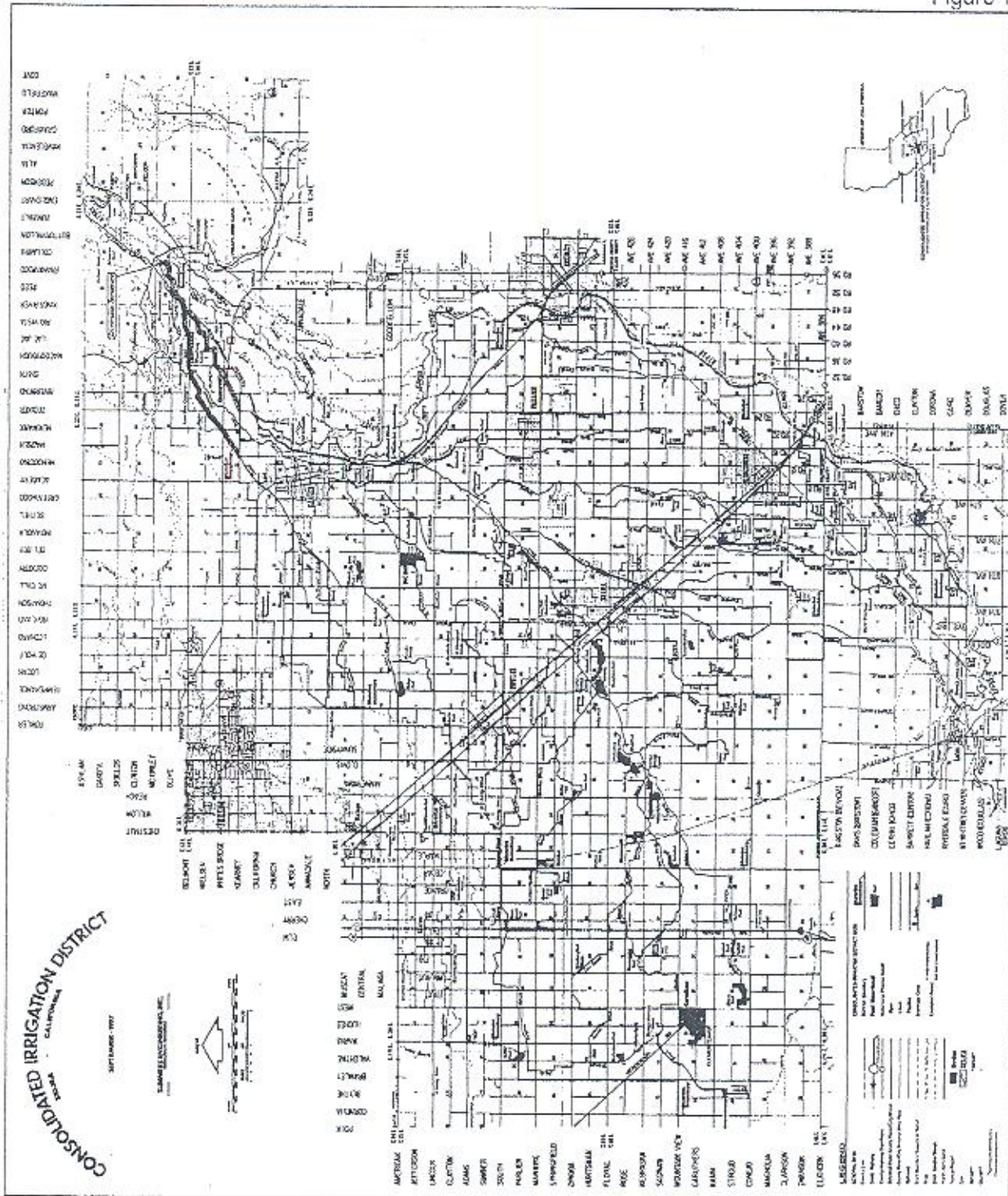
Certain facilities within the District have been critically impacted by urban development in terms of public safety and the District's operating efficiency (pp.33-36). Additional development in the vicinity of these critical areas will diminish public safety and operating efficiency below an acceptable level. Therefore, capital improvements in these specific areas are needed to mitigate the cumulative impacts of additional urban development.

- *Determine how there is a reasonable relationship between the fees amount and the cost of the facilities or portion of the facilities attributable to the development on which the fee is imposed (§66001(a)(4)).*

The proposed fee for each category of impacts is presented in terms of a one-time payment to CID. The net present value was determined for impacts that result in ongoing annual costs to CID (Appendix A). This calculation considers the value of CID receiving a one-time deposit in advance of the development versus receiving payments over time. It also accounts for inflation of annual mitigation costs to CID. The method for apportioning the present value of mitigating a given impact to a per acre fee varies depending on the category of the impact. Annual assessment revenue losses were divided by the average annual acreage annexed into the cities over the past five years (p.6). The per acre value of using CID's water system to

deliver additional imported surface supplies for groundwater recharge is based on the fraction of CID's delivery capacity needed and the additional groundwater consumed by each acre of land converted from agricultural to urban use (p.18). The cost of purchasing imported surface supplies to replace water diverted to new urban development is based on the regional market value of water and the additional groundwater consumed by each acre of land converted from agricultural to urban use (p.18). The additional O&M cost to CID resulting from urban development was divided by the current acreage in CID that is assessed under the city pump rate (p.27, Table 6). The per acre value of cities using CID's water system to dispose of urban storm water is based on the fraction of CID's flow capacity that is used to serve the current acreage in CID that is assessed under the city pump rate (p.30). The per acre cost for capital improvements to CID's system is based on the estimated cost of specifically identified projects, the average annual acreage annexed into the cities over the past five years, and a 20 year horizon for project implementation (p.41). Per acre fees are proposed for commercial development (p.43). Per acre fees were divided by a representative housing density of 3.75 single family units per acre to determine the proposed per housing unit fees (pp.11,43).

Figure 1



Consolidated Irrigation District Surface Water Diversions vs. Average Depth to Groundwater

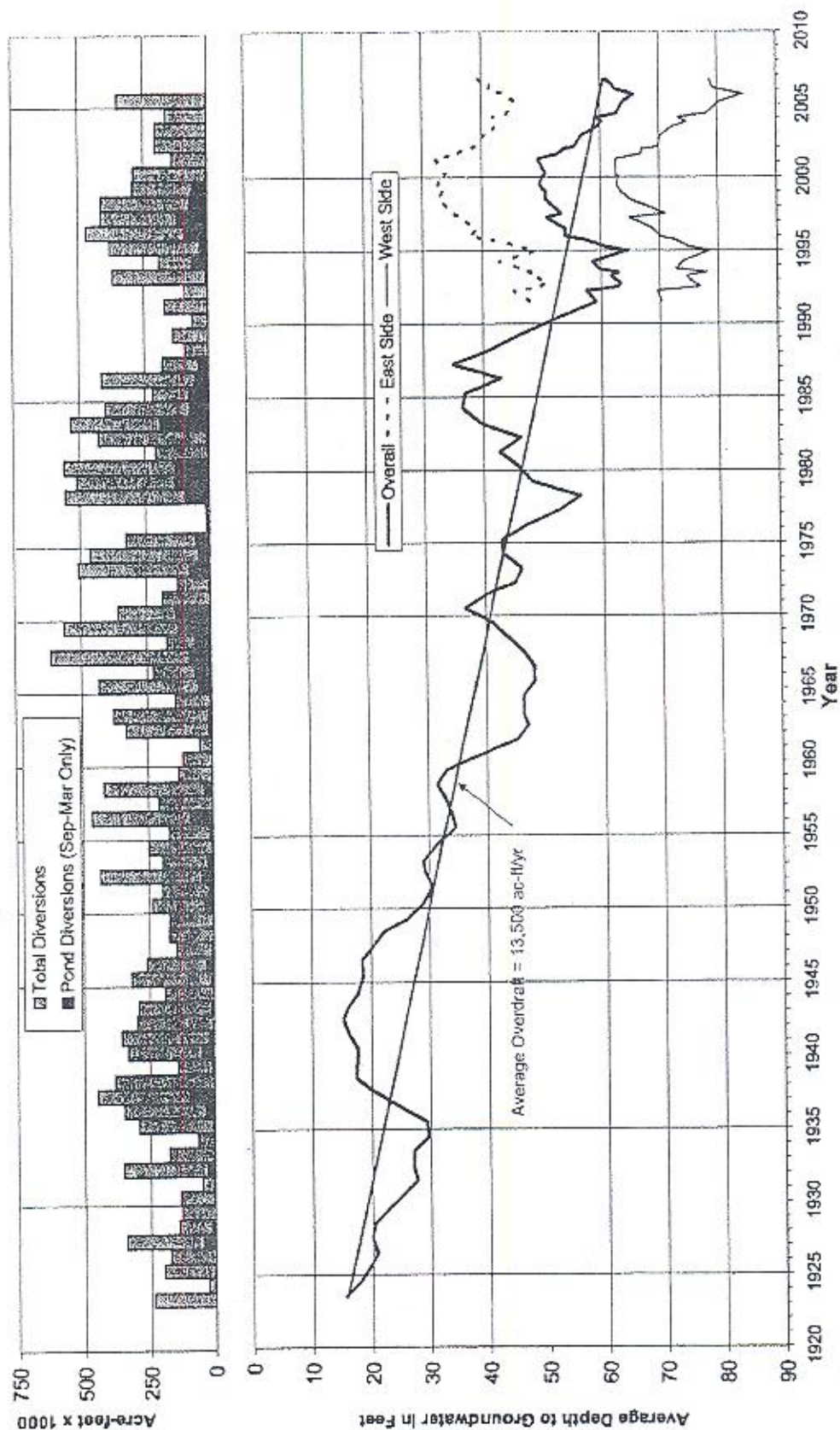


Figure 2

APPENDIX A

Present Value Calculation

For the purpose of determining a one time urban impacts mitigation fee, impacts quantified as an annual cost to CID are expressed as a present value using the following calculation.

(1)	30 Year Treasury Bond Rate	4.91%
(2)	Average Annual Inflation Rate	2.00%
(3)	Period (years)	30
	Net Present Value Factor	19.59

APPENDIX B

Consolidated Irrigation District Urban versus Agricultural Water Use Calculations

Urban Development Supplied by Groundwater		Unit
(1) Gross area of study area	74	acres
<u>Land use summary</u>		
(2) Actual single family units (SFU)	269	
(3) Multi-family units (MFU) (4-plex)	13	
(4) MFU / SFU ratio by parcel area	0.67	
(5) Equivalent SFU (3)x(4)	9	
(6) Equivalent SFU (2)+(5)	278	
(7) SFU per acre (6)+(1)	3.75	
(8) Streets, alleys, sidewalks	21	acres
(9) Home parcels	53	acres
(10) Homes, private driveways, sidewalks, patios	26.5	acres
(11) Open ground turf (75%)	19.9	acres
(12) Open ground bare (25%)	6.6	acres
<u>Precipitation</u>		
(13) Average annual precipitation Selma area	11	inches
(14) Average annual effective precipitation used by residential lawn turf	9	inches
(15) Annual recharge from precipitation (13)x(1)+12in/ft - (14)x(1)+12in/ft	53	acre-feet
<u>Indoor water use</u>		
(16) People per household (statewide average per 1990 census)	2.7	
(17) People per household (estimated CID average per DWR Bulletin 166-4)	3.5	
(18) Water use per capita per day (DWR Urban Water Needs Analysis)	70	gallons
(19) Annual indoor water usage (6)x(17)x(18)x365 days+326,000 gal/ac-ft	76	acre-feet
<u>Outdoor water use</u>		
(20) Average annual ET for lawn turf in San Joaquin Valley adjusted for precip.	45	inches
(21) =	3.75	feet
(22) Lawn irrigation efficiency	90%	
(23) Annual outdoor water usage (11)x(21)+(22)	83	acre-feet
<u>Distribution system operation</u>		
(24) Total system indoor & outdoor water usage (19)+(23)	159	acre-feet
(25) Operational losses	4%	
(26) Annual operational water usage (24)x(25)	6	acre-feet
<u>Net groundwater usage</u>		
(27) Total urban water usage (19)+(23)+(26)	165	acre-feet
(28) Unit urban water usage (27)+(1)	2.23	ac-ft/ac
(29) Net reduction to groundwater (27)-(15)	112	acre-feet
(30) Net groundwater usage (29)+(1)	1.51	ac-ft/ac

Urban versus Agricultural Water Use Calculations (cont.)

Agriculture Irrigated with Surface Water and Groundwater		Unit
<u>Precipitation</u>		
(31) Average annual effective precipitation used by grapes	3	inches
(32) Annual recharge from precipitation $[(13)-(31)] \times (1) + 12 \text{ in/ft}$	49	acre-feet
(33) Unit recharge from precipitation $(32) \div (1)$	0.67	ac-ft/ac
<u>Irrigation needs</u>		
(34) Average annual ET for grapes adjusted for precipitation	2.25	feet
(35) On farm irrigation efficiency	70%	
(36) Percentage of usable area for farming	95%	
(37) Annual water needed from irrigation $(34) \div (35) \times (36)$	3.05	ac-ft/ac
(38) Annual surface water usage (per turnout meter data)	1.60	ac-ft/ac
(39) Annual groundwater pumping to meet irrigation needs $(37) - (38)$	1.45	ac-ft/ac
(40) Annual recharge from excess irrigation $(37) \times [1 - (35)]$	0.92	ac-ft/ac
<u>Net groundwater usage</u>		
(41) Net groundwater usage $(39) - (33) - (40)$	-0.14	ac-ft/ac
<u>Agriculture Irrigated with Groundwater Only</u>		Unit
(42) Annual groundwater pumping to meet irrigation needs (37)	3.05	ac-ft/ac
<u>Net groundwater usage</u>		
(43) Net groundwater usage $(42) - (33) - (40)$	1.46	ac-ft/ac
<u>Conclusion</u>		
(44) Net increase in groundwater consumption when land use changes from grapes irrigated with surface water and groundwater to urban housing served by groundwater $(30) - (41)$	1.65	ac-ft/ac

APPENDIX C

(Replacement Value of CID's System)

Consolidated Irrigation District Tabulation of District Accounts

[illegible]

Consolidated Irrigation District
Federation of District Facilities[illegible]

Consolidated Irrigation District
Tabulation of District Facilities

[illegible]

Consolidated Irrigation District 7 Association of District Factors

[illegible]

Consolidated Irrigation District

[illegible]

APPENDIX D

R&B Projects to Mitigate Urban Impacts

Project No. 1

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	Furnish and Install (F&I) 72-inch RGRCP	3,150	Linear Feet	\$330	\$1,039,500
2	F&I Reinforced concrete pipeline connections	6	Each	\$7,500	\$45,000
				Subtotal	\$1,084,500
				40% Contingencies & Incidentals	\$433,500
				Total	\$1,518,000

Project No. 2

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	F&I 84-inch RGRCP	3,850	Linear Feet	\$400	\$1,540,000
2	F&I 72-inch RGRCP	2,000	Linear Feet	\$330	\$660,000
3	F&I Pipeline inlet structure	1	Each	\$35,000	\$35,000
4	F&I Reinforced concrete pipeline connections	3	Each	\$7,500	\$22,500
				Subtotal	\$2,257,500
				40% Contingencies & Incidentals	\$903,500
				Total	\$3,161,000

Project No. 3

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	F&I 72-inch RGRCP	1,300	Linear Feet	\$330	\$429,000
2	F&I Reinforced concrete pipeline connections	2	Each	\$7,500	\$15,000
				Subtotal	\$444,000
				40% Contingencies & Incidentals	\$178,000
				Total	\$622,000

Project No. 4

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	F&I 60-inch RGRCP	1,250	Linear Feet	\$275	\$343,750
2	F&I Reinforced concrete headworks structure	1	Each	\$30,000	\$30,000
3	F&I Reinforced concrete pipeline connections	1	Each	\$7,500	\$7,500
				Subtotal	\$381,250
				40% Contingencies & Incidentals	\$152,750
				Total	\$534,000

Project No. 5

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	F&I 60-inch RGRCP	750	Linear Feet	\$275	\$206,250
2	F&I Reinforced concrete pipeline connections	2	Each	\$7,500	\$15,000
				Subtotal	\$221,250
				40% Contingencies & Incidentals	\$88,750
				Total	\$310,000

R&B Projects to Mitigate Urban Impacts

Project No. 6

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	F&I 84-inch RGRCP	4,700	Linear Feet	\$400	\$1,880,000
2	F&I Reinforced concrete pipeline connections	2	Each	\$7,500	\$15,000
				Subtotal	\$1,895,000
				40% Contingencies & Incidentals	\$758,000
				Total	\$2,653,000

Project No. 7

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	Furnish and install (F&I) monitoring system		Lump Sum		\$25,000
2	F&I Water level monitoring stations	21	Each	\$15,000	\$315,000
				Subtotal	\$340,000
				40% Contingencies & Incidentals	\$136,000
				Total	\$476,000

Project No. 8

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	Land purchase	37	Acres	\$25,000	\$925,000
2	Construct earthen levees	28,000	Cubic Yards	\$10	\$280,000
3	F&I Turnout structure	2	Each	\$20,000	\$40,000
				Subtotal	\$1,245,000
				40% Contingencies & Incidentals	\$498,000
				Total	\$1,743,000

Project No. 9

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	Land purchase	60	Acres	\$25,000	\$1,500,000
2	Construct earthen levees	35,000	Cubic Yards	\$10	\$350,000
				Subtotal	\$1,850,000
				40% Contingencies & Incidentals	\$740,000
				Total	\$2,590,000

Project No. 10

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	Land purchase	150	Acres	\$25,000	\$3,750,000
2	Construct earthen levees	55,000	Cubic Yards	\$10	\$550,000
3	F&I Turnout structure	1	Each	\$20,000	\$20,000
				Subtotal	\$4,320,000
				40% Contingencies & Incidentals	\$1,728,000
				Total	\$6,048,000

R&B Projects to Mitigate Urban Impacts

Project No. 11

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	Land purchase	10	Acres	\$25,000	\$250,000
2	Construct earthen levees	14,000	Cubic Yards	\$10	\$140,000
3	F&I Turnout structure	1	Each	\$20,000	\$20,000
				Subtotal	\$410,000
				40% Contingencies & Incidentals	\$164,000
				Total	\$574,000

Project No. 12

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	Furnish and Install (F&I) 60" road crossing	3	Each	\$30,000	\$90,000
2	F&I Check structure	3	Each	\$25,000	\$75,000
				Subtotal	\$165,000
				40% Contingencies & Incidentals	\$66,000
				Total	\$231,000

Project No. 13

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	F&I 60" RGRCP	650	Linear Feet	\$275	\$178,750
2	F&I Pipeline outlet structure	1	Each	\$24,000	\$24,000
3	F&I Check structure	1	Each	\$25,000	\$25,000
4	Land purchase	60	Acres	\$25,000	\$1,500,000
5	Construct earthen levees	35,000	Cubic Yards	\$10	\$350,000
				Subtotal	\$2,077,750
				40% Contingencies & Incidentals	\$831,250
				Total	\$2,909,000

Project No. 14

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	Land purchase	40	Acres	\$25,000	\$1,000,000
2	Construct earthen levees	28,000	Cubic Yards	\$10	\$280,000
3	F&I Turnout structure	1	Each	\$20,000	\$20,000
				Subtotal	\$1,300,000
				40% Contingencies & Incidentals	\$520,000
				Total	\$1,820,000

Project No. 15

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	Furnish and Install (F&I) 48" RGRCP	2,700	Linear Feet	\$200	\$540,000
2	F&I Turnout structure	1	Each	\$20,000	\$20,000
3	F&I Outlet structure	1	Each	\$35,000	\$35,000
4	Right-of-way	1.5	Acres	\$15,000	\$22,500
				Subtotal	\$617,500
				40% Contingencies & Incidentals	\$247,500
				Total	\$865,000

Benefit / Cost Analysis for Recharge Capacity Improvements

Project Nos. 8 through 15 involve system improvements or additions that would increase CID's capacity to import surface water for intentional groundwater recharge through dedicated recharge ponds. In CID's Groundwater Management Plan it is estimated that the District recharged approximately 2-million acre-feet of groundwater through its ponds and canals, between 1955 and 1995. The estimated surface area of open canals in CID is 860 acres and the total acreage of existing recharge ponds is approximately 1,300. Therefore, it can be assumed that the portion of total recharge in the District that is delivered through the ponds is 60% ($1,300 / (860+1,300)$). Based on this ratio, the average annual volume of recharge through CID's ponds is 23 acre-feet per acre ($2\text{-million} \times 60\% / 40 \text{ years} / 1,300 \text{ acres}$). In the *Groundwater and Water Supplies* section of the report, the market cost for additional water supplies in CID is identified as a one-time charge of \$3,000 per acre-foot plus an annual charge of \$90 per acre-foot. If the one-time charge is annualized over 30 years using the inverse of the present value factor calculated in Appendix A, the total annual cost is \$243 per acre-foot ($\$153 + \90). The resulting value for each additional acre of land developed for recharge is \$5,589 per year ($\$243 \times 23 \text{ ac-ft per year average recharge}$). Based on the calculation in Appendix A, the present value of new recharge ponds is then \$109,489 per acre.

The inverse of the present value factor in Appendix A could be considered a conservatively low capital recovery factor for the value of the one-time water supply charge. However, if the District purchases additional water supplies now, they avoid future inflation of the cost for water purchased on an annual basis. Therefore, the reverse inflation adjustment and the low capital recovery factor can be justified. The net effect on the overall B/C analysis is that it lowers the ratio and raises the threshold for feasible projects.

Table D-1 is a summary of recharge project benefits, costs, and B/C ratios. The R&B recharge projects included for mitigation of urban impacts have B/C ratios between 1.6 and 2.7.

Table D-1
B/C Ratio of Recharge Projects

Project No.	Acreage or Capacity Increase	Benefit	Cost	B/C Ratio
8	37 acres	\$4,051,093	\$1,743,000	2.3
9	60 acres	\$6,569,340	\$2,590,000	2.5
10	150 acres	\$16,423,350	\$6,048,000	2.7
11	10 acres	\$1,094,890	\$574,000	1.9
12	4 acres	\$437,956	\$231,000	1.9
13	60 acres	\$6,569,340	\$2,909,000	2.3
14 & 15	40 acres	\$4,379,560	\$2,685,000	1.6

