

Final
Environmental Impact Report

for the

Delhi Community Plan

Prepared for:

Merced County

Prepared by:

Adrienne Graham and Associates

September 2005

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1. INTRODUCTION

1. INTRODUCTION

INTRODUCTION

This Final Environmental Impact Report (FEIR) contains the public and agency comments received during the public review period on the Draft Environmental Impact Report (Draft EIR or DEIR) for the Delhi Community Plan (Proposed Project). This document has been prepared by Merced County, in accordance with the California Environmental Quality Act (CEQA).

Background

This Environmental Impact Report (EIR) is an informational document intended to disclose to the decision-makers and the public the environmental consequences of approving the Proposed Project. All written comments received during the Draft EIR public review period (June 17, 2005, through August 1, 2005) are contained in this Final EIR, along with responses to those comments.

Summary of Changes to the Draft EIR

Chapter 2, Changes to the Draft EIR, identifies all changes to the DEIR by subject matter section. These changes include corrections and staff-initiated changes in response to comments made on the DEIR.

Comments and Responses

All written comments received during the DEIR comment period are provided in Chapter 4 and responses to all comments. A list of commenters is provided in Chapter 3. Each comment letter is presented with brackets indicating how the letter has been divided into individual comments. Each comment is given a binomial with the letter number appearing first, followed by the comment number. For example, comments in Letter 1 are numbered 1-1, 1-2, 1-3, and so on. Immediately following the letter are responses, each with binomials that correspond to the bracketed comments.

Some comments on the DEIR do not pertain to physical environmental issues. Responses to such comments, though not required under CEQA, are included to provide additional information. The phrase "comment noted" is used when the EIR authors wish to acknowledge a comment that does not directly pertain to the Proposed Project or environmental issues analyzed in the EIR, does not ask a question about the EIR, or does not challenge an element of, or conclusion of, the EIR. The intent is to simply recognize the comment.

2. CHANGES TO THE DRAFT EIR

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This chapter presents all of the revisions made to the Draft EIR as a result of responding to comments, as well as minor corrections and revisions initiated by County staff based on their ongoing review. Added text is underlined and deleted text is struck through. Text changes are presented in the page order in which they appear in the DEIR.

TEXT CHANGES

NOTE: Deleted text is struck through; new text is underlined.

4.1 Land Use and Agriculture

Page 4.1-32 The following correction is made the third full paragraph:

The plan area is separated by ~~over four~~ approximately 3 miles from the City of Turlock to the north and approximately 5 miles from the City of Livingston to the south.

4.2 Transportation and Circulation

Page 4.2-29 Implementation Measure CI 5.1a is revised as shown:

CI 5.1.a Public transit stops shall be provided throughout the Community to ensure all residents are within walking distance ~~one quarter (1/4) mile~~ of a public transit stop. Locations of transit stops shall be determined in consultation with Merced County Transit.

The following Implementation Measure is inserted after Implementation Measure CI 5.1.d:

CI.5.1.e A park-and-ride lot should be provided in proximity to Highway 99.

Page 4.2-32 The following mitigation measure is added to Impact 4.2-6:

Additional Mitigation: 4.2-6: If and when a regional fee is adopted for Highway 99 improvements, new development in the Delhi Community Plan shall contribute its fair share in fee payments.

4.3 Air Quality

Page 4.3-15 The following text is inserted after the fourth paragraph:

District Rule 4103 Open Burning

Agricultural material shall not be burned when the land use is converting from agricultural to nonagricultural purposes.

District Rule 4902 Residential Water Heaters

This rule limits the nitrous oxides emissions from water heaters.

4.4 Noise

Page 4.4-20 The following mitigation measure is added to Mitigation Measure 4.4-3:

(b) New residential units shall not be located within 100 feet of the railroad tracks.

4.6 Historic Resources

Page 4.6-6 Implementation Measure O.S. 5.1.a is revised as shown:

OS 5.1.a The County of Merced shall undertake an inventory of historic resources in the Delhi Community Plan Area to determine and map sites, buildings or structures of federal, state or local significance. The County of Merced is encouraged to seek the assistance of the Delhi Historical Society to undertake the inventory of historic resources.

The State Office of Historic Preservation has determined that buildings or structures 45 years or older have the potential to be historically significant. ~~Sections 5020-5029 of the State Public Resources Code address historic resource assessment and protection procedures and requirements.~~ The County inventory of historic resources shall be conducted in accordance with CEQA Guidelines Section 5020-5029 of the State Public Resources Code, 15126.4 (b).

5. Environmental Checklist

Biological Resources

Page 5-15 Therefore, Mitigation Measure 5-2(e) is revised as follows:

5-2(e) *If no active Swainson's hawk nests have been documented within 10 miles of the proposed Community Plan or action during the last five years no further measures are required. However, if active Swainson's hawk nests have been documented, the applicant shall be required to provide ~~comply with~~*

California Fish and Game Code §2080 and obtain a §2081 Management Authorization from the CDFG. At a minimum the § 2081 Management Authorization shall require 1:1 compensation for the loss of suitable foraging habitat through the conveyance of a conservation easement that provides for off-site preservation and management of suitable foraging habitat within five miles of each active nest site. Suitable foraging habitat shall be determined in consultation with the County and the California Department of Fish and Game.

Public Services

Page 5-48 Implementation Measure OS 1.1.d is revised as follows:

OS 1.1.d ~~New development shall provide~~ Require parkland dedication at the ratio ~~to meet the standard of 3.0 acres of neighborhood parkland per 1,000 residents primarily for neighborhood parks, and~~ An additional 2.0 acres of community parkland per 1,000 residents, primarily for community parks, should be provided through a combination of funding mechanisms for the entire Delhi plan area. Trails and / or open space should be provided for new development.

7.0 CEQA Considerations

Page 7-8 The following text is added at the end of the text:

7.4 SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL EFFECTS

Under CEQA, an EIR must analyze the extent to which a project's primary and secondary effects would commit resources to uses that future generations will probably be unable to reverse [CEQA Guidelines Section 15126.2(c); 15127].

Implementation of the proposed Community Plan would result in the long-term commitment of resources to residential, commercial, industrial and other development. Specific long-term effects of the proposed Community Plan could include:

- Increased ambient noise;
- Irreversible commitment of municipal resources to the provision of service and infrastructure for future urban and suburban development;
- Irreversible consumption of goods and services associated with urban development;
- Increased traffic volumes on existing roadways; and
- Irreversible consumption of natural resources.

Those impacts that could be significant are addressed throughout this Draft EIR. See, for example, Section 4.2, Transportation and Circulation, 4.4, Noise, 4.5, Utilities, and Chapter 5, Environmental Checklist.

Appendix D

Page 4 The following correction is made to the description of El Capitan:

Extending to the east, El Capitan Way provides access to ~~the eastern portion of Delhi before terminating at Ballico Avenue.~~ Sante Fe Drive, terminating east of Sante Fe Road at Alves Road.

Page 11 The following correction is made to description of **Shanks Road**:

Shanks Road is to be extended from its terminus with Vincent Road ~~to the west~~ eastward to Palm Avenue.

Page 34 The first sentence of the second paragraph under **Vincent Road** on of Appendix D of the Draft EIR is revised to read:

Development of the Delhi Community Plan will result in the need for signals or geometric improvements at many of the study intersections within the plan area.

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CI.5.1.e A park-and-ride lot should be provided in proximity to Highway 99.

Page 4.2-32 The following mitigation measure is added to Impact 4.2-6:

Additional Mitigation: ~~None required.~~ 4.2-6: If and when a regional fee is adopted for Highway 99 improvements, new development in the Delhi Community Plan shall contribute its fair share in fee payments.

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Page 4.3-15 The following text is inserted after the fourth paragraph:

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The State Office of Historic Preservation has determined that buildings or structures 45 years or older have the potential to be historically significant. ~~Sections 5020-5029 of the State Public Resources Code address historic resource assessment and protection procedures and requirements.~~ The County inventory of historic resources shall be conducted in accordance with CEQA Guidelines Section 5020-5029 of the State Public Resources Code, 15126.4 (b).

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3. LIST OF COMMENTERS

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INTRODUCTION

Seventeen letters commenting on the Draft EIR were received during the 45-day public review period. The letters can be found in Chapter 4, along with responses to the letters, in the order shown below.

LIST OF COMMENTERS

State and Regional Agencies

1. David B. Innis, Environmental Scientist, California Regional Water Quality Control Board, Central Valley Region
2. Tom Dumas, Chief, Office of Intermodal Planning, California Department of Transportation (Caltrans)
3. Hector R. Guerra, Senior Air Quality Planner, San Joaquin Air Pollution Control District

Local Agencies

4. Pat Kerrigan, Deputy Fire Chief, Merced County Fire Department
5. W. Richard Jantz, Deputy Executive Officer, Stanislaus County Environmental Review Committee
6. Raul Mendez, Senior Management Consultant, Stanislaus County Environmental Review Committee
7. Arie W. Vander Pol, Engineering Technician, Turlock Irrigation District

Individuals and Organizations

8. William W. Abbott, Abbott & Kindermann, LLP, for the Delhi Owners Group
9. Babette and Mark Alvernaz
10. Ladi Asgill
11. Elaine Bornmann
12. Dennis L. Cote
13. Brian and Wendy Duggan
14. Joey Gomes , Joe Gomes Diary
15. Richard Jantz
16. Jared Michalec
17. Jesus Rodriguez, President, and Francisca Briones, Spokesperson, Community Unity

4. COMMENTS AND RESPONSES

**LETTER 1: DAVID B. INNIS, ENVIRONMENTAL SCIENTIST, CALIFORNIA REGIONAL
WATER QUALITY CONTROL BOARD, CENTRAL VALLEY REGION**

Response to Comment 1-1:

Comment noted.

LETTER 2: TOM DUMAS, CHIEF, OFFICE OF INTERMODAL PLANNING, CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)

Response to Comment 2-1

The requested information was provided with the Draft EIR on a compact disk.

Response to Comment 2-2

The following Implementation Measure is added to the proposed Community Plan Circulation Element (Chapter 5), Goals, Objectives, Policies and Implementation Measures, and inserted after **Implementation Measure** CI 5.1.d on page 4.2-29 of the Draft EIR:

CI.5.1.e A park-and-ride lot should be provided in proximity to Highway 99.

Response to Comment 2-3

As stated on page 4.2-36 of the Draft EIR, the proposed Community Plan would increase traffic on Highway 99 by approximately 4,300 vehicles per day, which would exacerbate the already unacceptable conditions on the highway. The Draft EIR recognizes that adding lanes to Highway 99, which would improve operations, would be under the jurisdiction of Caltrans, rather than the County. Therefore, the impact was found to be significant and unavoidable.

As recommended in the comment, auxiliary lanes would improve conditions on Highway 99. Because development from the proposed Community Plan would contribute traffic to the highway, it would be appropriate for new development to pay its fair share toward highway improvements, if and when a regional fee is adopted for such a purpose. Therefore, the following mitigation measure is added to Impact 4.2-6 on page 4.2-32 of the Draft EIR.

Additional Mitigation: 4.2-6: *If and when a regional fee is adopted for Highway 99 improvements, new development in the Delhi Community Plan shall contribute its fair share in fee payments.*

Response to Comment 2-4

Comment noted.

Response to Comment 2-5

Roadway levels of service provide a general assessment of the operations that would occur. However, the operation of major intersections primarily governs the quality of

traffic flow conditions in a community. As such, the County elected to focus on intersection level of service analysis for this study to determine the significance of resulting traffic conditions in the future with development of the proposed Community Plan. Toward this end, the County identified 26 intersections in the community that represented those locations where impacts of future development were most likely. As part of the 26 intersections, the County also selected several intersections outside the plan area (e.g., SR 99 SB Ramps/Collier Road, Bloss Road/Sycamore Street) to provide an indication of the impacts that could arise outside of the plan area at build out. These intersections that were located outside the plan area were selected in areas that were determined to be the most affected by future development.

Response to Comment 2-6

The EIR does evaluate the impacts on SR 99 on a daily basis. Specifically, pages 4.2-29 and 4.2-33 describe the operations and improvements that would be required, under the existing and future conditions, and further evaluates whether improvements would be feasible.

Response to Comment 2-7

No specific proposals have been made for the industrial designations in the plan area. As such, it was assumed that the industrial designations would develop as general light industrial. The rates used in this study were taken directly from the equations for general light industrial in the Institute of Transportation Engineers (ITE) *Trip Generation* (Seventh Edition).

Response to Comment 2-8

The trip generation rates and pass-by percentages were both taken from ITE publications. Each of the commercial sites varies in size, and thus has unique trip generation rates and pass-by rates. While the trip generation rates and pass-by percentages listed in the report vary for each individual shopping center, all of the commercial developments were grouped together at one site. As the commercial centers are smaller than the total listed, some of the commercial trip generation rates and pass-by percentages listed vary.

Response to Comment 2-9

Currently, only about five percent of the residential land uses in the adopted Community Plan remain to be developed. The EIR analysis assumes that non-residential development would also increase by about five percent under the adopted Community Plan (see page 4.2-13 of the Draft EIR). This assumption is based on the expectation that non-residential development would grow proportionately with residential growth, and that there are major constraints to developing areas designated for industrial and other non-residential uses. If the Delhi community were to continue to grow as currently planned in the approved Community Plan, then the “future condition” would entail build

out of the remaining five percent of the residential land that is currently vacant or underused, along with a proportionate increase in non-residential development. As such, a five percent increase in existing land uses would constitute build out of the existing Community Plan.

Response to Comment 2-10

The County does coordinate with the Merced County Association of Governments (MCAG) to develop the Regional Transportation Plan (RTP), and improvements identified in the RTP are included in the traffic model as appropriate. The County is also working with MCAG on a Regional Traffic Impact Fee (RTIF).

Response to Comment 2-11

Comment noted. The County and/or applicants will provide the required studies to Caltrans as needed.

Response to Comment 2-12

The Native American Heritage Commission was contacted during preparation of the Draft EIR, as were tribal representatives with local knowledge of the area (see page 5-20 of the Draft EIR).

LETTER 3: HECTOR R. GUERRA, SENIOR AIR QUALITY PLANNER, CENTRAL REGION, SAN JOAQUIN AIR POLLUTION CONTROL DISTRICT

Response to Comment 3-1:

Comment noted.

Response to Comment 3-2:

As stated on pages 4.3-16 and 17 of the Draft EIR, URBEMIS 2002 was used to calculate impacts of the proposed Community Plan. Subsequent development will use the most up-to-date versions of URBEMIS to conduct the air quality analysis, when warranted. As shown in Table 4.3-6, emissions from new growth would exceed District thresholds. Therefore, each project developed under the proposed Community Plan must implement, to the extent feasible, the mitigation measures identified in Appendix D-2 of the Draft EIR. Appendix D-2 includes a wide range of mitigation measures, developed by the San Joaquin Valley Air Pollution Control District (SJVAPCD) for residential, commercial and industrial development.

Response to Comment 3-3:

Pages 4.3-13 through 4.3-15 identify Air District rules and regulations that developers in Delhi must comply with. In order to provide a complete list of applicable rules, the following text is inserted after the fourth paragraph on page 4.3-15. The addition of this information does not alter the conclusions of the Draft EIR.

District Rule 4103 Open Burning

Agricultural material shall not be burned when the land use is converting from agricultural to nonagricultural purposes.

Response to Comment 3-4:

Comment noted.

Response to Comment 3-5:

In order to provide a complete list of applicable rules, the following text is inserted after the fourth paragraph on page 4.3-15. The addition of this information does not alter the conclusions of the Draft EIR.

District Rule 4902 Residential Water Heaters

This rule limits the nitrous oxides emissions from water heaters.

Response to Comment 3-6:

Comment noted. Please Response to Comment 3-2.

Response to Comment 3-7:

The comment provides another means of mitigating project-specific impacts. Please see Response to Comment 3-2.

Response to Comment 3-8:

The comment reiterates information about ozone contained in Table 4.3-4 of the Draft EIR. The information about federal funding programs is noted.

LETTER 4: PAT KERRIGAN, DEPUTY FIRE CHIEF, MERCED COUNTY FIRE DEPARTMENT

Response to Comment 4-1:

As stated on page 5-40 of the Draft EIR, proposed Community Plan Implementation Measure PS 4.1.b requires that a fire facilities and law enforcement impact fee be established. Such a fee could be established through a Benefit Assessment District within the County's Service Area and/or with creation of a Community Service District. This fee would provide a source of funds that could be used to construct a new station and, per proposed Community Plan Implementation Measure PS 4.1.c, ensure that equipment and personnel needs are met.

Response to Comment 4-2:

Implementation Measures PS 4.1.a through 4.1.c of the proposed Community Plan require that a fee be established to ensure that fire and police service levels are maintained, and that necessary facilities, equipment and personnel are funded. These measures are a requirement of the proposed Community Plan. Because the proposed Community Plan contains measures that would ensure that fire services would be adequate, the impact would be less than significant, and no additional mitigation is necessary.

LETTER 5: W. RICHARD JANTZ, DEPUTY EXECUTIVE OFFICER, AND RAUL MENDEZ, SENIOR MANAGEMENT CONSULTANT, STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE

Response to Comment 5-1:

Comment noted.

**LETTER 6: RAUL MENDEZ, SENIOR MANAGEMENT CONSULTANT, STANISLAUS
COUNTY ENVIRONMENTAL REVIEW COMMITTEE**

Response to Comment 6-1:

Comment noted.

LETTER 7: ARIE W. VANDER POL, ENGINEERING TECHNICIAN, TURLOCK IRRIGATION DISTRICT

Response to Comment 7-1:

A copy of the Draft EIR was sent to the Turlock Irrigation District with the original distribution. A second copy was sent to the District when the County learned that the original Draft EIR was not received. In addition, the Draft EIR is available on the County website.

Response to Comment 7-2:

The District is on the distribution list for County projects.

LETTER 8: WILLIAM W. ABBOTT, ABBOTT & KINDERMANN, LLP, FOR THE DELHI OWNERS GROUP

Response to Comment 8-1:

Implementation Measure OS 1.1.d on page 5-48 of the Draft EIR states that the proposed Community Plan would require 3.0 acres of neighborhood parkland per 1,000 residents, and 2.0 acres of community parkland per 1,000 residents consistent with other recently adopted community plans in the County. Both, the University Community Plan and the Planada Community Plan have established a standard of five acres of parkland per 1,000 residents shall be dedicated and developed as neighborhood and/or neighborhood parks.

Pursuant to Government Code 66477(a), the park area per 1,000 capita of city, county or local public agency shall be based on the amount of parkland acreage dedicated per the total population of the city, county or local public agency identified in the most recent available federal census. The most recent available federal census is 2000, from which baseline population assumptions County-wide and for Delhi were established.

As an unincorporated community, the formula to allow the legislative body (in the case of Delhi – the Merced County Board of Supervisors) to adopt higher standards for parkland dedication can be calculated on county-wide population to parkland ratio present at the 2000 federal census. The maximum parkland dedication standard the County may adopt for dedication of land or impose a requirement of the payment of fees in lieu of parkland dedication is 5 acres of parkland per 1,000 residents.

Based on the 2000 federal census, Merced County's unincorporated population was 77,927. Total County-owned parkland acreage available at that time was 830 acres. At the time of the 2000 federal census, Merced County's unincorporated population to County-owned parkland represented a ratio of 10.65 acres per 1,000 residents. Therefore, the County may adopt policy/standard for the dedication of 5 acres of parkland per 1,000 capita or the payment of fees in lieu of up to 5 acres of parkland dedication .

The proposed Community Plan does not direct or expect new development to remedy parkland deficiencies in Delhi. The proposed Community Plan establishes a parkland standard for all new development to ensure adequate parkland and recreational opportunities will be available as Delhi's population increases. The location of planned neighborhood and community parks is generalized, but approximately sized and located in the vicinity where recreational facilities would best support the recreational needs of the overall community as well as new residential growth areas.

Response to Comment 8-2:

The requirement that agricultural easements be used to reduce impacts on farmland is a common and feasible approach to protecting farmland in the County. As discussed on pages 4.1-33 and 4.1-34 of the Draft EIR, requiring agricultural easements would mitigate impacts on farmland by protecting some land from conversion to other uses. The loss of farmland would not be fully mitigated, because the approximately 690 acres

of Important Farmland in the plan area would be converted to development. Therefore, the loss of Important Farmland is considered a significant and unavoidable impact. However, the severity of the impact would be greater if Policy OS 3.2 and Implementation Measure OS 3.2.a, requiring agriculture conservation easements of new development, were not adopted. This approach was used with the recently-approved University Community Plan and the Planada Community Plan in Merced County. Furthermore, the County is developing a fee program for agricultural easements. The fees would be paid at the time a building permit is acquired for projects that are converting Important Farmland. The fee program would ensure that the mitigation is applied consistently throughout the County, simplify the implementation of the measure for property owners, and provide flexibility in obtaining easements on the most productive land.

Response to Comment 8-3:

The agricultural conservation easement is one of many costs that will be borne by new development, residential and non-residential. The cost of this measure as well as other costs, such as land acquisition and construction costs, will vary depending on market factors. Protection of productive farmland and provision of affordable housing are both important goals of Merced County. While the agricultural conservation easement could increase the cost of all development on Important Farmland, there is no evidence that it would reduce the availability of affordable housing.

Response to Comment 8-4:

The proposed Community Plan and the Draft EIR do discuss means for reducing noise levels in order to meet County standards. The Draft EIR restates proposed Community Plan Policy N 1.1, which requires that residential development incorporate measures to achieve the County standard of 65 dBA L_{dn} (see page 4.4-23 of the Draft EIR). Mitigation Measure 4.4-3 (page 4.4-20 of the Draft EIR) states that noise barriers, site planning and other measures may be used to ensure that interior noise levels meet County standards. The mitigated noise contours are not shown, because a variety of measures are available to attenuate noise and each has different levels of effectiveness. Therefore, the 65 dB contour for each property or project would vary once mitigation is in place. Prior to that time, it would be speculative to depict a mitigated 65 dB contour.

Response to Comment 8-5:

The Housing Element identifies a variety of costs associated with housing construction at the time the Element was prepared. The Housing Element does not require that each additional mitigation cost be considered for its effect on housing affordability. As discussed in Response to Comment 8-3, requiring conservation easements from projects converting agricultural land to urban uses would affect housing costs to some extent, but the magnitude of the effect on affordable housing is speculative.

Response to Comment 8-6:

The intent of proposed Community Plan Implementation Measure CI 5.1.a is to ensure that residents in the plan area are able to walk to transit stops. In order to ensure that transit stops are appropriately spaced, the implementation measure on page 4.2-29 of the Draft EIR is revised as shown:

CI 5.1.a Public transit stops shall be provided throughout the Community to ensure all residents are within walking distance ~~one quarter (1/4) mile~~ of a public transit stop. Locations of transit stops shall be determined in consultation with Merced County Transit.

None of the implementation measures require formal turnouts for all transit stops. In some cases turnouts would be appropriate, but in other cases, the stop could be on the shoulder.

Response to Comment 8-7:

As discussed on pages 5-11 through 5-19 of the Draft EIR, there are a number of special-status species that could occur within the plan area. Protocol surveys were not conducted during preparation of the proposed Community Plan. Site-specific studies would be required to identify what, if any, habitat for special-status species occurs within individual project sites. This step is necessary in order to determine what, if any, State or federal laws and regulations would apply to development of a particular property.

Response to Comment 8-8:

Pages 4.2-29 and 4.2-38 describe the impacts to SR 99 under two different scenarios, existing and future (cumulative) conditions. The 4,300 ADT refers to the amount of traffic on SR 99 that would be generated from the proposed Community Plan, which would be the same under existing or future conditions. In contrast, the non-project volumes on Highway 99 would be greater under future conditions.

Response to Comment 8-9:

Implementation Measure O.S. 5.1.a on page 4.6-6 of the Draft EIR is revised as shown to better reflect the County's intent that cultural resources in the plan area be protected, even when part of private or County development.

OS 5.1.a The County of Merced shall undertake an inventory of historic resources in the Delhi Community Plan Area to determine and map sites, buildings or structures of federal, state or local significance. The County of Merced is encouraged to seek the assistance of the Delhi Historical Society to undertake the inventory of historic resources.

The State Office of Historic Preservation has determined that buildings or structures 45 years or older have the potential to be historically significant.

~~Sections 5020-5029 of the State Public Resources Code address historic resource assessment and protection procedures and requirements. The County inventory of historic resources shall be conducted in accordance with CEQA Guidelines Section 5020-5029 of the State Public Resources Code, 15126.4 (b).~~

Response to Comment 8-10:

Implementation Measure PS 1.1 requires the “can and will serve” letter only for entitlements, such as tentative maps and conditional use applications (see page 4.5-14 of the Draft EIR). The proposed Community Plan requires these letters prior to approval of entitlements in order to ensure a project cannot move forward until the County is certain that wastewater treatment and potable water will be available.

Response to Comment 8-11:

The text on page 4.1-27 of the Draft EIR does not state that consistency with every policy is required. However, in order to determine whether the proposed Community Plan is consistent with the Land Use Element of the General Plan, the relevant policies were reviewed and evaluated. The proposed Community Plan would be adopted as an integral element or chapter of Merced County General Plan. As an element of the County’s General Plan, the proposed Community Plan is required to be internally consistent with the County’s General Plan, including goals, objectives and policies. Impact 4.1-3 does not find that the proposed Community Plan is inconsistent with any General Plan policy.

Response to Comment 8-12:

Comment noted.

Response to Comment 8-13:

Sections 2080 and 2081 are included in Mitigation Measure 5-2(c), because removal of an active Swainson’s nest does require approval of the California Fish and Game Code. However, these sections do not apply to mitigation for loss of foraging habitat. Therefore, Mitigation Measure 5-2(e) is revised as follows:

5-2(e) ~~If no active Swainson’s hawk nests have been documented within 10 miles of the proposed Community Plan or action during the last five years no further measures are required. However, if active Swainson’s hawk nests have been documented, the applicant shall be required to provide eomply with California Fish and Game Code §2080 and obtain a §2081 Management Authorization from the CDFG. At a minimum the § 2081 Management Authorization shall require 1:1 compensation for the loss of suitable foraging habitat through the conveyance of a conservation easement that provides for off-site preservation and management of suitable foraging habitat within five miles of each active nest site. Suitable foraging habitat shall be determined in consultation with the County and the California Department of Fish and Game.~~

LETTER 9: BABETTE AND MARK ALVERNANZ

Response to Comment 9-1:

As discussed in Impact 4.5-3, cumulative increases in groundwater use could result in a net reduction in water stored in the aquifer, which could have adverse effects on the aquifer, such as subsidence (see page 4.5-11 of the Draft EIR). Wells drawing from the same aquifer could also be affected. The proposed Community Plan would contribute to the increased use of groundwater. The Draft EIR recognizes that cumulative effects on groundwater could be adverse, and the project contribution, although relatively small, is considered significant (see page 4.5-11 of the Draft EIR). The Draft EIR also identifies mitigation requiring that new wells be sited to avoid adverse effects on local wells (see Mitigation Measure 4.5-2 on page 4.5-8).

Response to Comment 9-2:

The comment reiterates the findings of Impact 4.3-8, which concludes that the cumulative degradation of air quality would be a significant and unavoidable impact (see pages 4.3-28 and 4.3-29 of the Draft EIR).

Response to Comment 9-3:

The comment reiterates the findings of the Draft EIR regarding noise (see Impacts 4.4-1 through 4.4-6 on pages 4.4-16 through 4.4-26) and light (see pages 5-5 and 5-6 of the Draft EIR).

Response to Comment 9-4:

The Draft EIR evaluates the effects of the proposed Community Plan on special-status species and their habitat. These are species that are rare, threatened or endangered, as defined by the federal and State natural resource agencies, and/or provided legal protection. Some of the animals listed in the comment, specifically owls and hawks, are protected by law, and are addressed on pages 5-11 through 5-17 of the Draft EIR. Coyotes and most snakes are not protected, because their numbers and range are large enough that continued existence of the species is not threatened by development. It should be noted that the Delhi community would continue to be surrounded by agricultural land, so that there would continue to be extensive habitat for these animals.

Response to Comment 9-5:

The request that the Bradbury Road overcrossing area and the Early Dawn Road area remain in agriculture is hereby forwarded to the Board of Supervisors for its consideration.

Please also see Responses to Comments 9-1 through 9-4.

LETTER 10: LADI ASGILL

Response to Comment 10-1:

Please see Response to Comment 12-3.

Response to Comment 10-2:

The preference for sound walls is hereby forwarded to the Board of Supervisors for its consideration.

The proposed Community Plan discourages the use of sound walls, but recognizes that they may be necessary in some areas. Proposed Community Plan Implementation Measure N 1.2.a states that landscape setbacks and berms are the preferred method of noise abatement, and discourages the use of sound walls along minor collector corridors or designated Community Gateways. Therefore, sound walls are not discouraged along Highway 99 or major collectors. The measure further states that, if a setback of more than 50 feet would be required to achieve the applicable noise standard, then sound walls may be considered.

Response to Comment 10-3:

Even though CEQA does not require that the EIR identify the financial feasibility of a project, the County is working with the Delhi Developers Group LLC and the Delhi Municipal Advisory Council (MAC) to evaluate the overall fiscal impacts of the proposed Community Plan. This financial study will be available prior to the public hearings. Public and private development activity, including the Master Plans, is proposed to be implemented consistent with an overall community fiscal and financing plan, the proposed Community Plan, public facilities plans and the EIR. Based on the community fiscal and financing plan, each project, whether in a Master Plan area or not, will need to pay for direct impacts as well as a pro-rata share of off-site impacts.

LETTER 11: ELAINE BORNMANN

Response to Comment 11-1:

The commenter's opposition to the extension of South Avenue through her property is hereby forwarded to the Board of Supervisors for its considerations.

The roadway alignments shown in the Circulation Diagram on page 4.2-15 of the Draft EIR and page 5-2 of the proposed Community Plan are conceptual. Exact alignments and rights-of-way will be determined during engineering design for each roadway. The extension and/or widening of some roadways are likely to require that the County acquire all or part of some properties in the plan area. Any property acquisition would be conducted according to law, which requires that the property owner be compensated at fair market value.

LETTER 12: DENNIS L. COTE**Response to Comment 12-1:**

The population figure of 8,200 on page 3-8 of the Draft EIR is the most recent census figure available. As indicated by the comment, Delhi's current population has grown since 2000. The year for which existing population is cited does not affect the EIR analysis. The EIR analysis is based on buildout of the Community Plan area. Existing baselines vary by topic, and are rarely based solely on population. For example, the analysis of impacts on agriculture is based on acreage, and traffic-related analyses are based on traffic levels.

Response to Comment 12-2:

Vibration impacts would not occur beyond 100 feet from the railroad tracks. Therefore, the following mitigation measure is added to Mitigation Measure 4.4-3 on page 4.4-20:

(b) New residential units shall not be located within 100 feet of the railroad tracks.

Response to Comment 12-3:

As discussed on pages 4.4-19 and 4.4-26, feasible mitigation measures are not available to reduce the increase in noise levels at existing residential areas. Noise-reducing asphalt can reduce traffic noise by up to four decibels (dB). For short roadway segments in specific area, this could be feasible mitigation. However, the noise impacts identified in Impacts 4.4-1 and 4.4-6 would occur throughout the plan area, so it would not be feasible to resurface existing roadways with noise-reducing asphalt (see page 4.4-19).

Response to Comment 12-4:

As stated on page 4.5-8 of the Draft EIR, current water supply is adequate to serve the plan area. Because Impact 4.5-1 would be less than significant, no mitigation is necessary. The proposed Community Plan would contribute to cumulative increases in groundwater withdrawal, which is considered a significant impact, as discussed on pages 4.5-10 and 4.5-11 of the Draft EIR. As discussed on page 4.5-11, the project contribution to increased groundwater pumping would be relatively small. Nonetheless, the cumulative impact is considered significant, because of the potential for increased withdrawals to have adverse effects on the groundwater basin. This impact would occur whether or not the proposed Community Plan is approved.

The comment is correct that new construction must install water-conserving fixtures. In many cases, retrofitting occurs overtime, as homeowners replace worn fixtures with new, water-conserving fixtures. The Delhi County Water District (DCWD) is empowered to

initiate an active retrofitting program, of which the costs and benefits of such a program, and the amount of water that could be saved, are not known.

The comment is also correct that using recycled water for landscape irrigation can reduce water use; however, there is no information available at present to determine the feasibility of upgrading the DCWD's system to provide recycled water, or the amount of water to be saved. Presently, the DCWD wastewater treatment plant (WWTP) is not designed to provide water treated to standards required of recycled water used to irrigate community areas. The existing service area does not have pipelines to carry recycled water. Water service is under the purview of the DCWD, rather than the County. The DCWD could upgrade the WWTP to provide recycled water for landscape irrigation, but has no plans to do so at this time.

For the reasons stated above, mitigation to reduce water use is not considered feasible.

Response to Comment 12-5:

CEQA does not require that an environmentally superior alternative be identified for every significant impact. For a discussion of measures to reduce water use and use of recycled water, please see Response to Comment 12-4.

Response to Comment 12-6:

The wastewater flow rates are the same rates used by the DCWD in planning for expanded wastewater conveyance and treatment facilities, as indicated in the report prepared for the DCWD by Fremming, Parson & Pecchenino, *Wastewater Collection System & Waster Distribution System Study for the Delhi County Water District*, to evaluate the increased wastewater generation due to the proposed Community Plan. Please see Response to Comments 12-4 and 12-5 for discussions of water-conserving fixtures.

Response to Comment 12-7:

The proposed Community Plan is intended to provide for growth of Delhi during the next 15 years, and is designed to minimize leapfrog development, and to direct growth away from the most productive agricultural areas.

The conceptual water and wastewater diagrams shown in Figures 8.1 and 8.2 of the proposed Community Plan are designed to serve the anticipated growth within the proposed plan area. Additional growth could occur beyond 2020, but any extension of the plan area would require amendments to the Community Plan and DCWD's service area, which would require approval by LAFCO and the County. As discussed on page 7-5 of the Draft EIR, DCWD plans to size its water and wastewater conveyance infrastructure to serve the eventual development of the 286 acres of Urban Reserve identified in the plan area. This area is not planned for development under the proposed

Community Plan, but is recognized as the area most likely to support development in the future beyond the proposed Community Plan buildout.

Response to Comment 12-8:

Please see Response to Comment 2-5 regarding study area roadways. The plan area must have boundaries, and roads are typically used as boundaries. A roadway with curb and gutter on one side and only a shoulder on the other is not any more likely to promote leap-frog development than a road with curb and gutter on both sides. The draft Community Plan specifically states that Merced Avenue between Schendel Avenue and Letteau Avenue will not be subject to the roadway widening due to the location of existing residences (see page 5-5 of the proposed Community Plan).

Response to Comment 12-9:

As stated on page 4.2-11 of the Draft EIR, the Merced County Association of Governments (MCAG) has adopted a Regional Bicycle Plan that would provide bike paths throughout the region, including connections to Delhi. As discussed on pages 4.2-30 and 4.2-31 of the Draft EIR, the proposed Community Plan provides for bike paths throughout the plan area. These bike paths within the plan area would connect Delhi to the regional network being developed by MCAG.

Response to Comment 12-10:

Access to arterials, by their designation, is more restrictive than collectors. The draft Community Plan provides a description of each of the roadways that are classified in the Community Plan, in addition to providing text describing access requirements for arterials (see Chapter 5, Circulation, of the proposed Community Plan).

Response to Comment 12-11:

Roadways are not classified or reclassified based on capacity. They are classified based on their function. In addition, it is not anticipated that extending Pinewood to Collier Road would result in a large increase in traffic that would cause the SR 99/Collier Road interchange to fail, because most of the new development in Delhi is not anticipated to travel along this route and the traffic volumes along Collier Road are relatively low.

Response to Comment 12-12:

Roadway classifications are not based on levels of service, but rather the function of the roadways (as is illustrated in the figure provided in the comment). It is common for the same roadway designation to have a varying number of lanes. Therefore, the overall capacity of the roadway is adjusted to account for the number of travel lanes. Also, it is appropriate, in some instances, to install traffic calming measures to reduce the travel speed of vehicles or to reduce the volume on roadways. Traffic calming measures are

typically installed to improve an existing traffic concern, rather than on major roadways within new development areas.

Response to Comment 12-13:

The traffic study used trip generation rates from the Institute of Transportation Engineers publication *Trip Generation* (Seventh Edition). This is a nationally-recognized publication that traffic engineers use in traffic studies. In addition, the proposed Community Plan is a planning level document, and specific projects have not been proposed in the non-residential area. Further analysis of traffic operations will be required as individual development projects are proposed.

Response to Comment 12-14:

Paragraph 3 is part of the introduction that provides an overview for the reader. It discusses the methodology that is used in the traffic analysis. As such, the intent of this overview is not to provide or introduce technical information. Technical information and analyses are provided later in the report under the appropriate report sections.

Note that the traffic study included in the Draft EIR is dated May 5, 2005, not April 8, 200. The earlier draft, which was not circulated for public review, of the Traffic Study could differ in content and pagination from the public review Traffic Study included in Appendix D of the Draft EIR, which was the study used in the EIR analysis of traffic impacts..

Response to Comment 12-15:

Paragraph 5 is also part of the introduction. Please see Response to Comment 12-14.

Response to Comment 12-16:

Each of the roadways in the plan area is classified in Figure 4.2-3 of the Draft EIR and in Chapter 5 of the proposed Community Plan. Note that the roadway classifications for future conditions may not be the same as the existing classifications.

Response to Comment 12-17:

The section of Bradbury Road that is described in the report terminates at Balico and does not intersect Santa Fe Drive. In the vicinity of Santa Fe Drive, Bradbury Road is disjointed. A western portion of this roadway does connect to Santa Fe Drive and extends to the east. However, adding the text as proposed may mislead the reader into thinking that the portion of Bradbury Road that is described in the report has direct access to Santa Fe Drive.

Response to Comment 12-18:

The map inadvertently shows Palm Street connecting to South Avenue and South Street connecting to 4th Avenue. However, neither of these connections was assumed to exist in the technical portion of this analysis.

Response to Comment 12-19:

The following correction is made to the description of El Capitan on page 4 of Appendix D of the Draft EIR:

Extending to the east, El Capitan Way provides access to ~~the eastern portion of Delhi before terminating at Ballico Avenue.~~ Santa Fe Drive, terminating east of Santa Fe Drive at Alves Road.

Response to Comment 12-20:

Comment noted.

Response to Comment 12-21:

The January 2002 counts were not adjusted.

Response to Comment 12-22:

Comment noted. The current adopted County threshold is LOS D.

Response to Comment 12-23:

Please see Response to Comment 2-5 regarding the selection of intersection locations. Note that the traffic forecasts for the proposed Delhi Community Plan are not dependent upon which intersections are selected (i.e., the Pinewood extension to Collier was included in the model).

Response to Comment 12-24:

Page 8 displays half of the intersection turning movements during the am and pm peak hours at the study locations indicated under the existing condition. The other intersections are illustrated on the previous page. The report also provides an intersection location origin. It should also be noted that the model is not relevant to the existing condition illustrated in Figures 3a and 3b, which are based on traffic counts rather than the traffic model.

Response to Comment 12-25:

It would not be accurate to add “TS” to the top of the “warrant met?” column, because signal warrants are not only relevant for two-way stop controlled intersections, but also for all-way stop controlled intersections.

There were three signal warrants that were evaluated for this analysis (warrants 1-3):

- Warrant 1: vehicle-hours greater or equal to 4 for one lane approach,
- Warrant 2: approach volume greater than or equal to 100 for one lane approach, and
- Warrant 3: total volume greater than or equal to 800 for intersection. Calculations for each of the unsignalized intersection are provided in the appendix.

These calculations are the criteria for each warrant that is analyzed and an evaluation of whether that particular warrant is met.

Response to Comment 12-26:

Comment noted. The requested information would not affect the traffic analysis. Please also see Response to Comment 12-9.

Response to Comment 12-27:

The following correction is made to description of **Shanks Road** on page 11 of Appendix D:

Shanks Road is to be extended from its terminus with Vincent Road ~~to the west~~ eastward to Palm Avenue. This extension is to be classified as a major collector.

Response to Comment 12-28:

Figure numbers are not provided on any of the maps, but the text pages are numbered to account for the figures.

Response to Comment 12-29:

Daily rates are not used in the traffic study. Therefore, Table 3 presents the trip generation rates only for the a.m. and p.m. peak hours, which are analyzed

Response to Comment 12-30:

In the future, additional residential uses could develop along Bradbury Road. However, this “future” development was not part of the proposed Community Plan, nor was it

expected to develop within the life of the plan. The traffic study could not account for development that was not proposed. As such, the proposed Community Plan for Delhi will continue to have an abundance of commercial uses, much of which is located along Bradbury Road. With the amount of commercial uses exceeding the demand for the proposed residential development for the plan area, these trips were correctly allocated to the freeway.

Response to Comment 12-31:

The HCM (Highway Capacity Manual) does not address trip generation. See Response to Comment 12-13 regarding trip generation.

Response to Comment 12-32:

It was assumed that a 25% residential match to commercial would occur. This percentage is in the range of 25-30% as suggested by the commenter. Based on the amount of other employment opportunities in southern Stanislaus County and Merced County, it was assumed that 15% of the Delhi residents would work in the new business professional (BP) areas in Delhi. About 1/3 of all of the industrial trips were matched within Delhi. However, due to the small amount of proposed industrial area, this equates to only about 0.5% of the residential trip generation.

Response to Comment 12-33:

The MCAG 2000 model was not used for peak hour traffic projections. The MCAG 2025 model runs with and without the proposed Community Plan were used only to determine regional distribution in the area, such as on the freeway. The direction distribution used in the traffic analysis is provided the Traffic Report appendices, which are available from the County, as stated on page ii of the Draft EIR Table of Contents. Daily traffic volumes provided by MCAG were used for the noise element of the DEIR.

Response to Comment 12-34:

The only reference to an “Area of Benefit” in the traffic study is part of the title for the *Formation Report for Delhi – Bridge and Major Thoroughfare Area of Benefit*. As stated in the traffic study, this document identifies improvements that were anticipated as the Delhi area developed under the current Community Plan. With development of the proposed Community Plan, the improvements detailed in this document could change. Only those circulation improvements that were currently part of the proposed Community Plan were assumed to be in place. A new Bridge and Thoroughfare study will be prepared after adoption of the proposed Community Plan for Delhi.

Response to Comment 12-35:

The text currently reads “...during one or both of the peak hours”. Both of these two

phrases have the same meaning, so no change is needed.

Response to Comment 12-36:

See Response to Comment 12-25.

Response to Comment 12-37:

The first sentence of the second paragraph under **Vincent Road** on page 34 of Appendix D of the Draft EIR is revised to read:

Development of the Delhi Community Plan will result in the need for signals or geometric improvements at many of the study intersections within the plan area.

Response to Comment 12-38:

There is no paragraph 5 or 7 on Page 37. If the commenter is referring to left-turn lanes on at SR 99 NB Ramps/ Bradbury Road or the left-turn lanes on Shanks Road at SR 99, then dual left turns will be required as the County requires dual left-turn lanes to be provided when peak hour traffic volumes exceed 300 vehicles per hour.

Response to Comment 12-39:

The traffic modeling performed for the EIR provides the information needed to determine whether the study intersections would operate at acceptable levels. The County does not require SYNCHRO modeling for an EIR, although it may be used for planning purposes. As discussed in Response to Comment 12-38, dual turn lanes would be needed to meet the County's requirement whether or not a SYNCHRO analysis is performed. Please see Response to Comment 12-30 regarding the balance of land uses on Bradbury Road.

Response to Comment 12-40:

As stated in Response to Comment 12-30, the traffic movements on Bradbury Road were not overstated.

Response to Comment 12-40:

Comment noted regarding nexus (although page 37 does not have a paragraph 6). For a discussion of "Two way LT", please see Response to Comment 12-38.

Response to Comment 12-41:

Paragraph 3 on Page 38 does not mention Stephens. If there is an s missing from the end of "Stephens" in another location in the report, it would not affect the outcome of the analysis.

Response to Comment 12-42:

The proposed Community Plan area does not show extension of South Avenue to the west to Schendel Avenue. The anticipated queue on the eastbound approach on South Avenue at Stephens Street is anticipated to extend into the South Avenue/Hillside Drive intersection. It was recommended that either the Hillside Drive intersection onto South Avenue or the Stephens Street intersection onto South Avenue be eliminated due to the close spacing (about 200 feet), or that the Hillside Drive intersection be restricted to right turns in and out only when the plan develops. Restriction of right turns in and out only at South Avenue would exacerbate congestion at the Hillside Drive intersection, as motorists oriented to and from the freeway will travel through this intersection. If Stephens Street were restricted to right turns in and out only, further analysis would be required.

Response to Comment 12-43:

The “rough cost estimates” that were provided are for similar interchange widenings that have occurred elsewhere. Both of the interchanges would ultimately require a PSR and more detailed cost estimates can be provided once the interchanges are designed.

Response to Comment 12-44:

As no all-way stop controls were proposed where not warranted, this footnote would not be appropriate.

Response to Comment 12-45:

The cost estimates that are provided for this analysis are rough estimates that give an overall magnitude of improvements that would need to be funded if the Community Plan were to develop as proposed. As such, location specific improvements (i.e., right-of-way for each individual roadway section) have not been determined. It is standard practice in the industry to provide rough cost estimates with relatively high contingencies and engineering costs, and to refine these estimates once the project is approved and location and design of specific improvements are determined. For this analysis these cost estimates will be refined after the proposed Community Plan has been adopted for Delhi in the updated Bridge and Thoroughfare study. The rough cost estimates for right-of-way were made to ensure that enough land would be available for future improvements.

LETTER 13: BRIAN AND WENDY DUGGAN**Response to Comment 13-1:**

Most of the impacts of the proposed Community Plan would occur within the plan area boundaries, because they have to do with physically changing the land (e.g., loss of farmland). Most of the traffic and traffic-related impacts would occur within the plan area, because people would travel between residences and commercial or industrial areas within the plan area, or from these areas to other parts of Merced County via Highway 99.

The comment does not indicate what incompatibilities would occur between the adjacent residential uses and proposed Community Plan land uses. The Draft EIR considers impacts on the surrounding community in Impact 4.1-2, potential incompatibilities with adjacent agricultural uses. Land uses proposed for the Community Plan edges are primarily Low Density Residential, Agricultural Residential and Urban Reserve. All of these uses would be compatible with adjacent residential uses. There are General Commercial and Commercial uses proposed in the northwest corner of the plan area. Land use adjacent to this area is active agriculture, which, as discussed on page 4.1-25, would be compatible with commercial uses.

Response to Comment 13-2:

The County solicited public input on the plan area boundaries and land uses within the plan area through several means. As discussed on page 1-1 of the Draft EIR, a series of monthly community plan update meetings were held in association with the Delhi Municipal Advisory Council (MAC), beginning in July 2001. Three community workshops were held to give the entire community the opportunity to express their ideas about the future of Delhi. The workshops were held in October 2001, September 2002 and September 2003. Additional public input was obtained from a community survey. Residents in and surrounding Delhi were notified of the workshops. Several dozen signs were placed throughout the community for each meeting, including a large sign at Bradbury Road and Flower Street. In addition, the meeting dates were posted on the County's website, and numerous ongoing articles have been published in the Delhi Express with additional coverage in the Turlock Journal, Modesto Bee and the Merced Sun Star. Finally the Draft Community Plan and Draft EIR were publicly circulated for 45 days.

Response to Comment 13-3:

The only portion of the plan area that is near Early Dawn Road is the northwest corner, which would be developed with General Commercial uses under the proposed Community Plan. This land use designation was selected because of the proximity of a Highway 99 interchange. The General Commercial designation is intended to support community-wide and regional retail services, such as restaurants, specialty shops, grocery

stores and pharmacies (see page 3-6 of the draft Community Plan). These uses are fairly typical near highway interchanges, where noise levels and traffic render the areas less conducive to residential uses. Industrial uses are not allowed in the General Commercial designation.

Please also see Response to Comment 13-1.

Response to Comment 13-4:

Please see Response to Comment 10-3.

Response to Comment 13-5:

Comment noted. The following correction is made the third full paragraph on page 4.1-32 of the Draft EIR:

The plan area is separated by ~~over four~~ approximately 3 miles from the City of Turlock to the north and approximately 5 miles from the City of Livingston to the south.

The distance between Delhi and Turlock does not affect the findings of the Draft EIR.

Response to Comment 13-6:

Impact 4.1-6 on pages 4.1-34 and 4.1-35 recognizes that the community could continue to grow beyond buildout of the proposed Community Plan. The discussion on page 4.1-35 considers the potential for the proposed Community Plan to exert pressure on Williamson Act property owners to the north to file for non-renewal of their contracts in anticipation of further northward expansion. The proposed Community Plan boundaries stop at Bradbury Road in the north. The plan does not allow for development beyond Bradbury Road. However, as discussed on page 1-1 of the Draft EIR, the proposed Community Plan is intended to direct the growth of Delhi over the next 15 years. In the future, the community and County could choose to further expand the plan area. Such expansion is speculative at this time, and would require a new Community Plan, General Plan Amendments and other actions. As noted in the comment, constraints to such expansion include Williamson Contracts and the TID canal. In addition, the Community Plan cannot extend beyond the Merced County line (and so into Turlock or any Turlock-designated greenbelt), because an unincorporated community or city cannot be located in multiple county jurisdictions.

Response to Comment 13-7:

Please see Response to Comment 2-5.

Response to Comment 13-8:

Please see Response to Comment 2-5 regarding roadway and intersection analyses. Currently, Early Dawn Road is only present north of Bradbury Road and eventually intersects with Clausen Road. Presently, the intersection of Early Dawn Road at Bradbury Road is a “T” intersection. This intersection was evaluated under existing conditions (see Table 4.2-2 on page 4.2-9 of the Draft EIR). With development of the proposed Community Plan, Early Dawn Road would be extended south of Bradbury Road and form the westerly most boundary of the proposed shopping center. An access to the proposed shopping center would align with Clausen Road, north of Bradbury Road. As the Clausen Road and shopping center access with Bradbury Road will carry more traffic than the Early Dawn Road/Bradbury Road intersection in the future, the analysis evaluated the shopping center access. As shown on pages 4.2-24 and 4.2-36 of the Draft EIR, the intersection of Clausen and Bradbury Road would operate at an acceptable service level with installation of a signal.

Because roadway volumes were not expected to increase substantially on Early Dawn Road, noise levels should not change noticeably. Similarly, because intersection operations in the area would be acceptable (after mitigation), local carbon monoxide impacts would be less than significant. For these reasons, the air and noise analyses did not address Early Dawn Road.

Response to Comment 13-9:

There are only three new roadway improvements that are assumed in the traffic analysis.

Response to Comment 13-10:

The odors from restaurants and gas stations do not travel far. The separations provided by Bradbury Road and the extension of Early Dawn Road, as well as onsite parking and landscaped areas, would minimize the effects of urban odors on nearby residents. Therefore, exposure to odors would be less than significant.

Response to Comment 13-11:

As discussed on page 4.4-16, traffic noise in the plan area would increase. Although most roadways, including minor collectors, would have noise levels that meet the County standard for noise levels in residential areas, the increase would be noticeable to existing residents. Tables 4.4-6 and 4.4-8 provide an indication of the magnitude of the changes. Similar changes would occur on similar roadways that were not modeled. Please also see Response to Comment 12-3.

Response to Comment 13-12:

The referenced text on page 4.4-25 describes land uses anticipated in the surrounding

area, to determine whether the noise generated by adjacent areas would change. Because the area surrounding the plan area is expected to remain in agricultural uses, the non-traffic noise generated from those areas would remain agricultural in nature.

The comment is correct that within the plan area, there would be changes in noise. These are considered in the project-specific impacts.

Response to Comment 13-13:

There would be no direct impacts on water supply for the cities of Turlock or Livingston, because the plan area is served by the Delhi County Water District, which does not provide water to any other community. Impact 4.5-3 on pages 4.5-10 and 4.5-11 of the Draft EIR examines the cumulative impacts on the aquifer resulting from development of the plan area and other communities that use the Turlock Groundwater Basin. The City of Turlock is one of the communities using this basin.

Response to Comment 13-14:

The statement on page 4.1-29 that the “amount of water used would be small relative to the size of the aquifer” is consistent with the analysis in Section 4.5. For example, on page 4.5-11, the Draft EIR states that “the proposed Community Plan would have only a slight effect on the overall changes in the amount of water stored in the basin.” Nonetheless, the Draft EIR concludes that this small change would contribute to the cumulative increase in groundwater pumping, which could be significant.

Response to Comment 13-15:

The depletion of the groundwater aquifer referenced in the comment would occur whether or not the proposed Community Plan were developed, because it is the result of cumulative development (that is, development throughout the area that draws from the aquifer), which includes over 250,000 acres, as discussed on page 4.5-3 of the Draft EIR.

The Draft EIR recognizes that there could be localized effects on existing groundwater wells. Mitigation Measure 4.5-2 requires that new municipal wells be sited so that groundwater extraction does not result in localized groundwater drawdown that would substantially reduce the production rate of existing nearby wells. With this mitigation, local non-municipal wells would not be adversely affected by increased pumping to serve plan area development.

Response to Comment 13-16:

As discussed on page 5-33 of the Draft EIR, the County requires that new development be designed so that it does not increase the 100-year peak storm flow. In addition, drainage infrastructure must pass a 5-year, 24-hour storm, and detention facilities must detain the 10-year, 24-hour storms. Smaller storms are not expected to result in flooding.

These requirements would ensure that new development does not cause or exacerbate flooding in existing areas.

Response to Comment 13-17:

The comment is correct that nighttime views in the immediate vicinity of newly developed areas will change. However, as stated on page 5-5 of the Draft EIR, proposed Community Plan Design Guidelines 4.3.2.g and 4.5.2.require that exterior light fixtures employ lower intensity lighting that is directed towards the ground so that no more than 10 percent of light is cast above the horizontal plane of lighting fixtures. This requirement will ensure that only a small amount of light is shown skyward, and that the amount of light produced by the community does not increase substantially over existing levels.

LETTER 14: JOEY GOMES, JOE GOMES DIARY

Response to Comments 14-1:

The commenter's request that his property be included in the plan area is hereby forwarded to the Board of Supervisors for its consideration.

One of the considerations in preparing the plan area boundaries was protection of agriculture by avoiding agricultural preserves, Williamson Act contract lands, and, to the extent possible, Prime Farmland. The commenter's property is under a Williamson Act contract, so it was not included in the plan area. If the proposed Community Plan included the commenter's property with an Urban Reserve designation, it still could not be developed without an amendment to the Community Plan.

Response to Comment 14-2:

Impact 4.1-2 on pages 4.1-24 through 4.1-27 evaluates potential incompatibilities between plan area residences and surrounding agricultural operations. The proposed Community Plan includes several policies that would reduce the potential for these uses to be incompatible. Streets, canals, landscaping, screening and setbacks are to be used as physical barriers or separations where possible, (Policies LU 4.2 and LU 4.3 and Implementation Measures 4.2.a and LU 4.3.a). The County's "Right-to-Farm" ordinance would apply to plan area residences within 1,000 feet of agricultural uses. This ordinance requires that residents be notified that they could be subject to inconveniences or discomfort arising from agricultural activities. Such notification is intended to ensure that those who move within 1,000 feet of agricultural uses would find such activities acceptable. These policies, measures and the Right-to-Farm ordinance would minimize complaints about family farms and dairies.

LETTER 15: RICHARD JANTZ**Response to Comment 15-1:**

As part of the first phase of the Community Plan process, a thorough opportunities and constraints analysis was conducted, which included an inventory of developed, undeveloped and underdeveloped parcels within the existing Community Plan boundaries to determine the availability of development opportunities within the community. This information was compared to population projections to determine whether sufficient land was available within the existing boundaries of Delhi. Based on the population projections and the expected lifespan of the Delhi Community Plan, there was not sufficient land within the existing boundaries to support projected growth. Factors used to determine the direction of the expansion of the community to support projected growth included farmland easements, Prime Farmland, Williamson Act contract lands, and other agricultural measures.

Response to Comment 15-2:

Please see Responses to Comments 10-3 and 14-2.

Response to Comment 15-3:

Mitigation Measure 4.3-3 on pages 4.3-20 requires that each project developed in the plan area comply with the applicable emission reduction measures provided by the San Joaquin Valley Unified Air Pollution Control District. The measures are shown in Appendix D-2 of the Draft EIR. Every development application will need to demonstrate that it has incorporated all of the applicable, feasible measures, and explain why measures that are not included are infeasible. As stated in Impact 4.3-3, these measures would reduce air quality impacts, but not to a less-than-significant level.

Response to Comment 15-4:

The proposed Community Plan does not provide any entitlements, so its adoption does not require expansion of the wastewater treatment plant (WWTP). Some development could occur under the existing plan's excess capacity. The Draft EIR recognizes that development of the proposed Community Plan would require expansion of the WWTP. Mitigation Measure 4.5-4 on page 4.5-14 requires that the County verify that the WWTP has capacity serve a proposed development before its approval. Recognizing that this measure would lead to the eventual expansion of the WWTP, a discussion of potential impacts of a plant expansion are discussed on page 4.5-15 and 4.5-16 of the Draft EIR. Consistent with CEQA Guidelines Section 15126.4(d), the impacts of the mitigation measure are discussed at a lesser level of detail than project impacts. The actual impacts of a plant expansion cannot be determined until the location and basic design of the expansion have been determined. The Delhi County Water District (DCWD) will be the lead agency for the plant expansion project, and all environmental review of the DCWD

facility improvements. The DEIR identifies a list of other permitting entities on pages 3-11 and 3-12; the DCWD is listed as required by the CEQA Guidelines.

Response to Comment 15-5:

Please see Response to Comment 2-5.

Response to Comment 15-6:

As indicated in the Response to Comment 2-5, the County identified several intersections outside the plan area to be analyzed in the Draft EIR.

Response to Comment 15-7:

CEQA does not require that the Draft EIR identify the financial carrying capacity of a project. The information on cost provided in the Traffic Study was intended for planning purposes, not the environmental analysis. For a discussion of the fiscal analysis being prepared for the proposed Community Plan (separate from the EIR), please see Response to Comment 10-3.

Response to Comment 15-8:

Please see Response to Comment 10-3.

Response to Comment 15-9:

Water is supplied to the plan area by the Delhi County Water District (DCWD), which uses groundwater for municipal supply. DCWD does not have any surface water supply. The Turlock Irrigation District (TID) currently supplies surface water for agricultural irrigation in the region. Therefore, the Draft EIR assumed all water for the plan area would be groundwater, and DCWD has prepared a Water Supply Assessment in accordance with SB 610 (see Appendix E of the Draft EIR), which identified a groundwater supply. DCWD can investigate obtaining surface water from TID under its own authority, but to do so would be outside of the scope of the Delhi Community Plan and EIR.

Response to Comment 15-10:

The cited standards are not inconsistent. The Sheriff's Department has a departmental goal of one officer per 750 residents. This is not an adopted County policy or regulation. Moving the Hilmar Station to Delhi would provide a police presence in Delhi, which would not need more than one substation. Even with this substation, additional staff and equipment would be needed to serve the community as it grows. As stated on page 5-42, the proposed Community Plan includes implementation measures that would ensure that

additional personnel and equipment would be provided as needed to meet growing demand.

Response to Comment 15-11:

Please see Response to Comment 10-3.

LETTER 16: JARED MICHALEC

Response to Comment 16-1:

Please see Responses to Comments 9-1 and 16-1.

Response to Comment 16-2:

Please see Response to Comment 15-3.

Response to Comment 16-3:

Please see Response to Comment 9-4.

Response to Comment 16-4:

The request that the Bradbury Road overcrossing and Early Dawn Road areas be preserved as farmland is hereby forwarded to the Board of Supervisors for its consideration.

LETTER 17: JESUS RODRIGUEZ, PRESIDENT, AND FRANCISCA BRIONES, SPOKESPERSON, COMMUNITY UNITY

Response to Comment 17-1:

Please see Response to Comment 10-3.

Response to Comment 17-2:

Please see Response to Comment 10-3.

Response to Comment 17-3:

Please see Response to Comment 10-3.

Response to Comment 17-4:

Please see Response to Comment 10-3.

Response to Comment 17-5:

Please see Response to Comment 10-3.

Response to Comment 17-6:

CEQA does not require the evaluation of non-environmental (e.g., social) impacts, except to the extent that they would result in changes in the physical environment (CEQA Guidelines Section 15131). The increase in population as a result of the proposed Community Plan would have physical effects on the environment, which are analyzed throughout the Draft EIR.

The comment refers to a number of existing conditions. Pursuant to CEQA, the Draft EIR evaluates changes that would result from development of the proposed Community Plan. Improvements to existing conditions are beyond the scope of the Draft EIR.

Response to Comment 17-7:

The Draft EIR does discuss the need for additional police officers on pages 5-41 and 5-42. As stated on page 5-42, proposed Community Plan Implementation Measures PS 4.1.a through 4.1.d, which require establishment of a fire facilities and law enforcement fee to ensure that County equipment and personnel standards are met for new development, would ensure that law enforcement services are adequate to serve new development and would not degrade service to existing areas.

Please also see Responses to Comments 10-3 and 17-6.

Response to Comment 17-8:

Please see Response to Comment 10-3.

5. MITIGATION MONITORING PROGRAM

5. MITIGATION MONITORING PROGRAM

INTRODUCTION

This section provides the Mitigation Monitoring Program (MMP) for the Delhi Community Plan, pursuant to Section 21081.6 of the California Public Resources Code, which requires public agencies to "adopt a reporting and monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment." A MMP is required for the proposed project because the Environmental Impact Report identified significant adverse impacts, and mitigation measures have been identified to reduce those impacts to less-than-significant levels.

The proposed Community Plan would amend the County General Plan and provide policies to ensure that the Community Plan is implemented as envisioned by Delhi residents and the County. The proposed Community Plan provides for substantial increases in residential and commercial development, accompanied by services needed to serve this growth. The proposed Community Plan is projected to increase the community population from approximately 8,200 residents to approximately 21,000 residents. Commercial, office/business park and industrial development would increase to approximately 3.3 million square feet. The proposed Community Plan provides for ten schools, including seven elementary schools, two middle schools and one high school. There would also be a total of twelve parks.

The numbering of the individual mitigation measures follows the numbering sequence found in the Initial Study. All revisions to mitigation measures that were identified in responses to comments have been incorporated into this MMP.

Adoption of the MMP shall occur prior to, or concurrently with, adoption of the proposed project for which the program has been developed.

PURPOSE OF THE MITIGATION MONITORING PROGRAM

The purpose of the MMP is to:

- Ensure that mitigation measures are implemented;
- Provide feedback to agency staff and decision makers about the effectiveness of mitigation measures;
- Provide learning opportunities for improving mitigation measures on future projects; and
- Identify the need for enforcement action before irreversible environmental damage occurs.

The components of the MMP are addressed briefly below.

Mitigation Measures: The mitigation measures are taken verbatim from the Draft EIR (Chapters 4 and 5), in the same order that they appear in the Draft EIR, as revised in Chapter 2, *Changes to the DEIR*, in this Final EIR.

Monitoring and Enforcement Actions: For every mitigation measure, one or more actions are described. These are the heart of the MMP, as they delineate the means for implementing the mitigation measures and, in many cases, the criteria for determining whether the measure has been implemented.

Responsible Entity: This column identifies the entity that will undertake the required action. Generally, the contractor is named for actions occurring during grading or construction. On-site inspections will be done by County staff.

Timing/Milestone: Each action must take place during or prior to some part of project development or approval. The timing of actions generally falls into one of the categories shown in the table below.

Monitoring and Enforcement Responsibility: Merced County will have ultimate and legal responsibility for implementation of all mitigation measures. This column indicates which department within the County will conduct the actual monitoring and reporting, as well as take corrective actions when a measure has not been properly implemented. Abbreviations are shown below.

ABBREVIATIONS	
Responsible Entities	Timing/Milestone
PCDD = Planning and Community Development Department	MP=Prior to approval of Master Plan
DPW=Department of Public Works	BP=Prior to approval of building permit
DCWD=Delhi County Water District	I = Prior to Approval of Improvement Plans
CDFG=California Department of Fish and Game	G = Prior to Grading
CM=City Manager	DG = During Grading
SJVUAPCD = San Joaquin Valley Unified Air Pollution Control District	C = Prior to Construction
	DC = During Construction
	O = Prior to Occupancy
	TM = Tentative Map

Table 5-1 Mitigation Monitoring Program				
Mitigation Measure	Monitoring and Enforcement Actions	Responsible Entity	Timing /Milestone	Monitoring and Enforcement Responsibility
4.2 Transportation and Circulation				
<p>4.2-1 The following improvements are required:</p> <p>(a) Widen Bradbury Road to four lanes from the new Early Dawn Road to the extension of the North Loop Road;</p> <p>(b) Widen Shanks Road from Vincent Road to Letteau Avenue; and</p> <p>(c) If proposed commercial development along Vincent Road would exceed the floor- to-area ratio (FAR) assumed in this traffic analysis, then the applicant shall prepare a traffic analysis to determine whether Vincent Road needs to be widened to four lanes to maintain acceptable operational levels. If the widening of Vincent Road must extend to Bradbury Road, then Bradbury Road from Vincent to North Avenue shall also be widened to four lanes.</p> <p>(d) Install signals and stop signs and construct lane improvements described in Table 4.2-7 and shown in Figure 4.2-5.</p> <p>(e) Install signals and stop signs and construct lane improvements described in Table 4.2-7 and shown in Figure 4.2-5.</p>	Prepare updated transportation improvement plan for Delhi community, including Area of Benefit and fee mechanism.	DPW	First MP	DPW
	Pay transportation improvement fee.	Developer	BP	PCDD
	Construct identified improvements.	DPW	As warranted	DPW
<p>4.2-6: If and when a regional fee is adopted for Highway 99 improvements, new development in the Delhi Community Plan shall contribute its fair share in fee payments.</p>	Coordinate with MCAG and Caltrans on the development of a regional fee.	DPW, PCDD	Ongoing	DPW
	Pay the regional fee.	Developer	BP, if fee is adopted	PCDD

Table 5-1 Mitigation Monitoring Program				
Mitigation Measure	Monitoring and Enforcement Actions	Responsible Entity	Timing /Milestone	Monitoring and Enforcement Responsibility
4.3 Air Quality				
<p>4.3-2 Project construction within the plan area shall implement the following measures:</p> <p>(a) To the extent practicable, construction equipment used at the site shall be equipped with catalysts/particulate traps to reduce particulate and NOx emissions. These catalysts/traps require the use of ultra low sulfur diesel fuel. At the time construction bids are made, the contractors must show that the construction equipment being used is equipped with particulate filters and/or catalysts or they must prove why it is infeasible to use these devices.</p> <p>(b) To the extent practicable, alternative fuels shall be used in diesel powered construction equipment.</p> <p>(c) To the extent practicable, fossil-fueled equipment shall be replaced with electrically driven equivalents, provided they are not run via a portable generator set.</p> <p>(d) During days of high ambient pollutant concentrations indicating poor air quality, the hours of construction requiring the use of heavy duty diesel equipment shall be minimized to six hours per day or whatever is deemed feasible. This may also include curtailing construction activities during the peak-hour of vehicular traffic on adjacent roadways.</p>	<p>Incorporate provisions of Measure 4.3-2 into construction contracts.</p> <p>Inspect site to ensure measures are being implemented.</p>	<p>Developer, Contractor</p> <p>SJVAPCD</p>	<p>C, G</p> <p>DC, DG</p>	<p>PCDD</p> <p>SJVAPCD</p>

Table 5-1 Mitigation Monitoring Program				
Mitigation Measure	Monitoring and Enforcement Actions	Responsible Entity	Timing /Milestone	Monitoring and Enforcement Responsibility
	*Note that these measures would not be required if the airstrip is permanently abandoned.			
4.5 Utilities				
4.5-2 New wells shall be sited so that groundwater extraction does not result in localized groundwater drawdown that will substantially reduce the production rate of existing nearby wells to a level that would not support existing land uses beyond the reasonable life-cycle expectancy and long-term productivity of those wells in the absence of the project.	Prior to siting a new well, a test well will be used to determine potential drawdown. The well shall be sited at a distance from existing wells that protects those wells from the effects of drawdown.	DCWD	Prior to installation of new well	PCDD, DPW
4.5-4: The County shall work with DCWD to ensure that adequate wastewater treatment capacity is constructed as needed to serve new development. No development proposals shall be approved until the County has verified that treatment capacity will be available to meet that proposal's demand for treatment.	Coordinate plans for wastewater plant expansion.	DPW, DCWD	Ongoing	PCDD, DPW, DCWD
	Provide a "can and will serve" letter demonstrating that adequate wastewater treatment is available.	Developer	BP	PCDD
5. Biological Resources				
5-1: (a) if suitable avian nesting habitat is found during the preconstruction survey, the species and location of nesting birds (if any) will be identified for each nest mapped on an appropriate scale base map of the project site. Avoidance zones of (1) 250 feet from each nest (for species other than raptors) or (2) 1,000 feet from each nest (for raptors) shall be observed during the nesting season (i.e., nest building to fledging of young). The nesting season shall be determined through monitoring of the nests by a qualified biologist (to determine when nests have been abandoned and are no longer in use). Only after the nesting season ends (i.e., nests have	Identify and avoid nests of protected birds, as indicated in Measure 5-1. OR	Developer, Contractor	C, G	PCDD

Table 5-1 Mitigation Monitoring Program				
Mitigation Measure	Monitoring and Enforcement Actions	Responsible Entity	Timing /Milestone	Monitoring and Enforcement Responsibility
<p>been determined to be abandoned) shall clearing or development proceed.</p> <p>(b) Alternatively clearing and/or developing a site may be allowed during a limited operating period (September to January), so that no clearing or development shall begin earlier than September 1 or later than January 31. It should be noted that use of a limited operating period does not require site clearance for nesting birds by a qualified biologist.</p> <p>Furthermore, construction activities may proceed past January 31 as long as the site has been cleared of potential nesting habitat prior to this date.</p>	<p>Conduct all clearing between September 1 and January 31.</p>	<p>Developer, Contractor</p>	<p>C, G</p>	<p>PCDD</p>
<p>5-2: If nesting Swainson’s hawk nests are found during the preconstruction survey, the County shall require that the project applicant implement the following measures:</p> <p>(a) Preconstruction survey for nesting Swainson’s hawks conducted by a qualified biologist on and within 0.25 miles of all lands proposed for development that support suitable nest trees for the species. The survey shall be conducted consistent with the guidelines provided by the Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley (Swainson’s Hawk Technical Advisory Committee, 2000) or most recent published guidance from the CDFG.</p> <p>(b) If an active Swainson’s hawk nest is</p>	<p>Identify and avoid Swainson’s hawk nests as indicated in Measure 5-1.</p> <p>OR</p>	<p>Developer, Contractor</p>	<p>C, G</p>	<p>PCDD</p>

Table 5-1 Mitigation Monitoring Program				
Mitigation Measure	Monitoring and Enforcement Actions	Responsible Entity	Timing /Milestone	Monitoring and Enforcement Responsibility
<p>located within the project site no clearing or development shall be allowed within 0.25 miles (1,320 feet) of the nest until after the young have fledged and are no longer dependent upon the nest (as determined by a qualified biologist).</p> <p>(c) If a nest tree must be removed, the applicant shall be required to comply with California Fish and Game Code § 2080 and obtain a § 2081 Management Authorization from the CDFG. At a minimum the § 2081 Management Authorization shall require that the nest tree be removed only between October 1 and January 31.</p> <p>(d) The applicant shall also query the most recent CNDDDB and coordinate with the CDFG to determine whether any Swainson’s hawk nests that have been active in the last five years are located within 10 miles of the proposed Community Plan or action.</p> <p>(e) If no active Swainson’s hawk nests have been documented within 10 miles of the proposed Community Plan or action during the last five years no further measures are required. However, if active Swainson’s hawk nests have been documented, the applicant shall be required to provide 1:1 compensation for the loss of suitable foraging habitat through the conveyance of a conservation easement that provides for off-site preservation and management of suitable foraging habitat within five miles of each active nest site. Suitable foraging habitat shall be determined in consultation with the County and the California</p>	<p>Conduct all clearing between October 1 and January 31.</p> <p>Query most recent CNDDP for locations of active Swainson’s hawk nests, as indicated.</p> <p>If Swainson’s hawk nests have been documented within 10 miles, then provide compensation as indicated.</p>	<p>Developer, Contractor</p> <p>Developer</p> <p>Developer</p>	<p>C, G</p> <p>BP</p> <p>BP</p>	<p>PCDD</p> <p>PCDD</p> <p>PCDD</p>

Table 5-1 Mitigation Monitoring Program				
Mitigation Measure	Monitoring and Enforcement Actions	Responsible Entity	Timing /Milestone	Monitoring and Enforcement Responsibility
Department of Fish and Game.				
<p>5-3: (a) Preconstruction surveys for burrowing owls, conducted pursuant to Implementation Measure OS 4.1.a, shall be conducted by a qualified biologist on all lands proposed for clearing or development that support suitable habitat for the species. The survey shall be conducted consistent with the guidelines provided by the Staff Report on Burrowing Owl Mitigation (CDFG, 1995) or most recent published guidance from the CDFG.</p> <p>(b) If burrowing owls are located within the project site, no clearing or development shall be allowed within 250 feet of any burrow determined to be occupied by owls during the breeding season (i.e., February 1 to August 31) or within 160 feet of any burrow determined to be occupied by owls during the non-breeding season (i.e., September 1 to January 31).</p> <p>(c) If occupied burrows must be destroyed, no destruction of burrows shall occur during the breeding season. Burrows may be destroyed during the non-breeding season, but only if all burrowing owls have been passively relocated more than 160 feet outside of the project or action area consistent with the guidance in the Staff Report on Burrowing Owl Mitigation (CDFG, 1995).</p> <p>(d) To offset the loss of foraging and burrow habitat the applicant shall enter into a Memorandum of Understanding (MOU) with the</p>	<p>Identify and avoid burrowing owl burrows as indicated in Measure 5-3.</p> <p>OR</p>	Developer	C, G	PCDD
	<p>Conduct all clearing outside of the breeding season.</p>	Developer	C, G	PCDD
	<p>If burrows are removed, enter into MOU with CDFG, for off-site compensation as indicated.</p>	Developer, DFG	C, G	PCDD

Table 5-1 Mitigation Monitoring Program				
Mitigation Measure	Monitoring and Enforcement Actions	Responsible Entity	Timing /Milestone	Monitoring and Enforcement Responsibility
CDFG that provides long-term protection of foraging habitat at an off-site location adjacent to occupied burrowing owl habitat. The off-site location should be acceptable to the CDFG and at a minimum convey 6.5 acres of suitable foraging habitat for each unpaired individual or pair or burrowing owls affected. Conveyance of the off-site habitat shall be through purchase of a conservation easement or fee title.				
5-4: If preconstruction surveys encounter California horned lizard or California legless lizard the applicant shall enter into a Memorandum of Understanding (MOU) with the CDFG that provides long-term protection of habitat at an off-site location that has occupied habitat. The off-site location should be acceptable to the CDFG and at a minimum require 0.25:1 compensation for the loss of suitable habitat. Conveyance of the off-site habitat shall be through purchase of a conservation easement or fee title.	Demonstrate that no California horned lizards or legless lizard are present on site, per Measure 5-4.	Developer	BP	PCDD
	OR Provide off-site compensation at a level acceptable to CDFG.	Developer	BP	PCDD
5-5: (a) Nests of this species (if any) will be mapped on an appropriate scale base map of the project site. An avoidance zone within 250 feet of each nest then shall be observed during the nesting season (i.e., nest building to fledging of young). The nesting season shall be determined through monitoring of the nests by a qualified biologist (to determine when nests have been abandoned and are no longer in use). Only after the nesting season ends (i.e., nests have been determined to be abandoned) shall clearing or development proceed.	Identify and avoid nests of Loggerhead Shrike, as indicated in Measure 5-5.	Developer, Contractor	C, G	PCDD
OR				

Table 5-1 Mitigation Monitoring Program				
Mitigation Measure	Monitoring and Enforcement Actions	Responsible Entity	Timing /Milestone	Monitoring and Enforcement Responsibility
<p>OR</p> <p>(b) A limited operating period may be used, so that clearing or development begin no earlier than September 1 or later than January 31. It should be noted that use of a limited operating period does not require site clearance for nesting birds by a qualified biologist. Furthermore, construction activities may proceed past January 31 as long as the site has been cleared of potential nesting habitat prior to this date.</p>	<p>Conduct all clearing between September 1 and January 31.</p>	<p>Developer, Contractor</p>	<p>C, G</p>	<p>PCDD</p>
Hazards and Hazardous Materials				
<p>5-6 A Phase I Environmental Site Assessment shall be performed prior to approval of a Master Plan, or, for property outside of a Master Plan area, a tentative subdivision map or parcel located in areas that had been used for industrial purposes in the past (shown on Figure 5-1 of the Draft EIR). The locations and number of soil samples shall be determined by a California registered civil engineer with methodology acceptable to the Regional Water Quality Control Board (RWQCB). Any areas of soil contamination in excess of regulatory levels shall be remediated to the satisfaction of the RWQCB.</p>	<p>Provide Phase 1 Environmental Assessment, as indicated in Measure 5-6.</p>	<p>Developer</p>	<p>MP, BP for projects within area shown in Figure 5-1</p>	<p>PCDD</p>

Table 5-1 Mitigation Monitoring Program				
Mitigation Measure	Monitoring and Enforcement Actions	Responsible Entity	Timing /Milestone	Monitoring and Enforcement Responsibility
5-7. If discolored or odorous soil or unknown containers are encountered during construction, all work shall cease in the vicinity of the affected area, until the find can be tested and remediated, if warranted.	Include provisions of Measure 5-7 in construction contract.	Developer, Contractor	C, G	PCDD
Hydrology and Water Quality				
5-8 Prior to approval of improvement plans by the Department of Public Works, the applicant shall provide a list of Best Management Practices (BMPs) that will protect receiving waters from urban contaminants in runoff. The BMPs shall be consistent with RWQCB guidelines, or, the County's NPDES Stormwater Management Plan once it is approved by the State of California.	Provide list of BMPs as indicated in Measure 5-8. Inspect site to ensure BMPs are properly implemented.	Developer, Contractor Contractor, RWQCB	IP DC, DG	DPW RWQCB