Chapter 7
Response to Comments

SCH# 2013081079

Volume 1A

REVISIONS to Title 19 – KERN COUNTY ZONING ORDINANCE – 2025(A), Focused on Oil and Gas Local Permitting

Kern County Planning and Natural Resources Department
2700 M Street, Suite 100
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May 2025

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PLANNING AND NATURAL RESOURCES DEPARTMENT

Planning
Community Development
Administrative Operations

DATE: May 27, 2025 **FILE:** Zoning Ordinance Amendment 2025(A)

TO: See Attached Mailing List

RE: CHAPTER 7 – RESPONSE TO COMMENTS FOR DRAFT SECOND SUPPLEMENTAL RECIRCULATED ENVIRONMENTAL IMPACT REPORT (SSREIR) (MARCH 2025) FOR REVISIONS TO TITLE 19 – KERN COUNTY ZONING ORDINANCE – 2025(A), FOCUSED ON OIL AND GAS LOCAL PERMITTING (SCH# 2013081079).

Dear Interested Party:

This is to advise that the Kern County Planning and Natural Resources Department has prepared a document entitled Volume 1A – Chapter 7 – Response to Comments, for the above-referenced project. Section 15088 of the California Environmental Quality Act Guidelines requires the Lead Agency to evaluate comments on environmental issues received from persons who reviewed the Draft SSREIR and prepare a written response addressing each comment.

This document is Chapter 7 of the Final Second Supplemental Recirculated Environmental Impact Report (FSSREIR) and is available for review at the Planning and Natural Resources Department by appointment, which is located at 2700 "M" Street, Suite 100, Bakersfield, CA 93301 or on the Department website at: **https://kernplanning.com/final-environmental-impact-report-revisions-kern-county-zoning-ordinance-2015-c-focused-oil-gas-local-permitting/**

A public hearing has been scheduled with the Kern County Planning Commission to consider this request on June 12, 2025 at 7:00 p.m., or soon thereafter, at the Chambers of the Board of Supervisors, First Floor, Kern County Administrative Center, 1115 Truxtun Avenue, Bakersfield, California. This document has been posted with the Kern County Clerk and provided to commenting agencies and interested parties by mail at least 10 days prior to the scheduled Planning Commission Hearing.

Thank you for your participation in the environmental process for this project. If you have any questions, please do not hesitate to contact me at (661) 862-5015 or via email at **AlvidrezK@kerncounty.com**.

Sincerely,

Keith Alvidrez

Keith Alvidrez, Planner II
Planning and Natural Resources Department

Commenting Agencies and Interested Persons: Central Valley Flood Protection Board; Caltrans; Kern County Public Works; Kern County Public Works – Survey; Earthjustice et al; Southern California Gas Company; Yuhaaviatam of San Manuel Nation; Twenty-Nine Palms Band of Mission Indians; Kern County Superintendent of Schools; Tom Porter.

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SSREIR (Oil & Gas)
RTC Notification List

Central Valley Flood Protection Board
Attn: Jamie Silva
3310 El Camino Ave., Ste. 170
Sacramento, CA 95821

California Department of Transportation
Attn: Nicholas Isla
1352 West Olive Avenue
Fresno, CA 93728

Kern County Public Works Department/
Building & Development/
Development Review

Kern County Public Works Department/
Building & Development/
Floodplain

Kern County Public Works Department/
Sewer and Water Division

Kern County Public Works Department/
Building & Development/
CSA Division

Kern County Public Works Department/
Building & Development/
Survey

Earthjustice
Attn: Colin O'Brien
180 Steuart St. #194330
San Francisco, CA 94105

SoCalGas
Attn: Nerses Papazyan
9400 Oakdale Ave
Chatsworth, CA 91311

Yuhaaviatam of San Manuel Nation
Attn: Raylene Borrego
26569 Community Center Drive
Highland, CA 92346

Twenty-Nine Palms Band of Mission Indians
Attn: Nicolas Garza
46-200 Harrison Place
Coachella, CA 92236

Kern County Superintendent of Schools
Attn: Andrea Watson
1300 17th Street, City Centre
Bakersfield, CA 93301

Tom Porter
636 D Street
Taft, CA 93268

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Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P. O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2013081079

Project Title: Revisions to Title 19 – Kern County Zoning Ordinance 2025(A), Focused on Oil and Gas Local Permitting

Lead Agency: Kern County Planning and Natural Resources Department — Contact Person: Keith Alvidrez

Mailing Address: 2700 "M" Street Suite 100 — Phone: (661) 862-5015

City: Bakersfield — Zip: 93301 — County: Kern

Project Location: County: Kern — City/Nearest Community: Multiple

Cross Streets: N/A — Zip Code: Multiple

Lat. / Long.: N/A — Total Acres: Approx 2.3 million sq acres

Assessor's Parcel No.: Multiple — Section: Multiple — Twp.: Multiple — Range: Multiple — Base:

Within 2 Miles: State Hwy #: 99, 58, 43, 46, 119, 223, 204, 33 — Waterways: Kern River

Airports: Multiple — Railways: Multiple — Schools: Multiple

Document Type:

CEQA:
- ☐ NOP
- ☐ Early Cons
- ☐ Neg Dec
- ☐ Mit Neg Dec
- ☐ Draft EIR
- ☐ Supplement/Subsequent EIR (Prior SCH No.) _____
- Other: _____

NEPA:
- ☐ NOI
- ☐ EA
- ☐ Draft EIS
- ☐ FONSI

Other:
- ☐ Joint Document
- ☐ Final Document
- ☒ Other RTC / FSSREIR

Local Action Type:

- ☐ General Plan Update
- ☐ General Plan Amendment
- ☐ General Plan Element
- ☐ Community Plan
- ☐ Specific Plan
- ☐ Master Plan
- ☐ Planned Unit Development
- ☐ Site Plan
- ☐ Rezone
- ☐ Prezone
- ☐ Use Permit
- ☐ Land Division (Subdivision, etc.)
- ☐ Annexation
- ☐ Redevelopment
- ☐ Coastal Permit
- ☒ Amendment: Zoning Ord.

Development Type:

- ☐ Residential: Units _____ Acres _____
- ☐ Office: Sq.ft. _____ Acres _____ Employees _____
- ☐ Commercial: Sq.ft. _____ Acres _____ Employees _____
- ☐ Industrial: Sq.ft. _____ Acres _____ Employees _____
- ☐ Educational _____
- ☐ Recreational _____
- ☐ Water Facilities: Type _____ MGD _____
- ☐ Transportation: Type _____
- ☐ Mining: Mineral _____
- ☐ Power: Type _____ MW _____
- ☐ Waste Treatment: Type _____ MGD _____
- ☐ Hazardous Waste: Type _____
- ☒ Other: Oil and Gas Exploration and Production

Project Issues Discussed in Document:

- ☐ Aesthetic/Visual
- ☒ Agricultural Land
- ☒ Air Quality
- ☐ Archeological/Historical
- ☐ Biological Resources
- ☐ Coastal Zone
- ☐ Drainage/Absorption
- ☐ Economic/Jobs
- ☐ Fiscal
- ☐ Flood Plain/Flooding
- ☐ Forest Land/Fire Hazard
- ☐ Geologic/Seismic
- ☐ Minerals
- ☐ Noise
- ☐ Population/Housing Balance
- ☐ Public Services/Facilities
- ☐ Recreation/Parks
- ☐ Schools/Universities
- ☐ Septic Systems
- ☐ Sewer Capacity
- ☐ Soil Erosion/Compaction/Grading
- ☐ Solid Waste
- ☐ Toxic/Hazardous
- ☐ Traffic/Circulation
- ☐ Vegetation
- ☐ Water Quality
- ☒ Water Supply/Groundwater
- ☐ Wetland/Riparian
- ☐ Wildlife
- ☐ Growth Inducing
- ☐ Land Use
- ☐ Cumulative Effects
- ☐ Other _____

Present Land Use/Zoning/General Plan Designation: Developed and undeveloped land in Kern County. Current Zoning Classifications and General Map Code Designations to remain the same.

Project Description Proposed Revisions to Title 19 – Kern County Zoning Ordinance (2025A) focused on oil and gas local permitting to implement site specific regulations and enhanced environmental protections for oil and gas activities in the unincorporated areas of the valley portion of Kern County. A Second Supplemental Recirculated EIR has been prepared to address three issues under CEQA directed to be addressed under legal actions. The previously adopted Title 19 -Kern County Zoning Ordinance for local permitting was ordered to be rescinded by the court and was rescinded on October 8, 2024 by the Board of Supervisors. The current ordinance permits oil and gas activities without any local permit or environmental regulation and only subject to a permit by the State of California.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "**X**".
If you have already sent your document to the agency, please denote that with an "**S**".

_____ Air Resources Board
_____ Boating & Waterways, Department of
_____ California Highway Patrol
_____ CalFire
__X__ Caltrans District # __6, 9__
_____ Caltrans Division of Aeronautics
_____ Caltrans Planning (Headquarters)
__X__ Central Valley Flood Protection Board
_____ Coachella Valley Mountains Conservancy
_____ Coastal Commission
_____ Colorado River Board
_____ Conservation, Department of
_____ Corrections, Department of
_____ Delta Protection Commission
_____ Education, Department of
_____ Energy Commission
_____ Fish & Game Region # _____
_____ Food & Agriculture, Department of
_____ General Services, Department of
_____ Health Services, Department of
_____ Housing & Community Development
_____ Integrated Waste Management Board
_____ Native American Heritage Commission
_____ Office of Emergency Services
_____ Office of Historic Preservation
_____ Office of Public School Construction
_____ Parks & Recreation
_____ Pesticide Regulation, Department of
_____ Public Utilities Commission
_____ Regional WQCB # _____
_____ Resources Agency
_____ S.F. Bay Conservation & Development Commission
_____ San Gabriel & Lower L.A. Rivers and Mtns Conservancy
_____ San Joaquin River Conservancy
_____ Santa Monica Mountains Conservancy
_____ State Lands Commission
_____ SWRCB: Clean Water Grants
_____ SWRCB: Water Quality
_____ SWRCB: Water Rights
_____ Tahoe Regional Planning Agency
_____ Toxic Substances Control, Department of
_____ Water Resources, Department of

_____ Other _____
_____ Other _____

Local Public Review Period (to be filled in by lead agency)

Starting Date May 27th, 2025 Ending Date June 12th, 2025

Lead Agency (Complete if applicable):

Consulting Firm: _____
Address: _____
City/State/Zip: _____
Contact: _____
Phone: _____

Applicant: _____
Address: _____
City/State/Zip: _____
Phone _____

Signature of Lead Agency Representative: Keith Alvidrez **Date:** 5/27/2025

Keith Alvidrez, Planner II

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

Chapter 7
Response to Comments

SCH# 2013081079

Volume 1A

REVISIONS to Title 19 – KERN COUNTY ZONING ORDINANCE – 2025(A), Focused on Oil and Gas Local Permitting

Kern County Planning and Natural Resources Department
2700 M Street, Suite 100
Bakersfield, CA 93301-2370
(661) 862-8600

May 2025

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List of Appendices

Appendix A Earthjustice et al (0005) Letter References

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ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
Board	Central Valley Flood Protection Board
Board of Supervisors	Kern County Board of Supervisors
CalGEM	California Geologic Energy Management Division
CARB	California Air Resources Board
CBB	Crotch's bumble bee(s)
CBE	Communities for a Better Environment v. South Coast Air Quality Management Dist.
CCR	California Code of Regulations
CCST	California Council on Science and Technology
CDFW	California Department of Fish and Wildlife
CDFW CBB Report	*Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species, June 6, 2023*
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CO_2	carbon dioxide
County	Kern County
CUP	Conditional Use Permit
DAC	disadvantaged community
DEIR	Draft Environmental Impact Report
DWR	Department of Water Resources
EIR	Environmental Impact Report
EOR	enhanced oil recovery
EPA	U.S. Environmental Protection Agency
FEIR	Final Environmental Impact Report
GHG	greenhouse gas
HPZ	Health Protection Zone
HRA	Health Risk Assessment
M&I	municipal and industrial
$\mu g/m^3$	micrograms per cubic meter
MM	Mitigation Measure
NAAQS	National Ambient Air Quality Standards
NIOSH	National Institute for Occupational Safety and Health

OG-ERA	Oil and Gas Emission Reduction Agreement
OPR	Office of Planning and Research
Ordinance	Kern County Zoning Ordinance
PM_{10}	particulate matter up to 10 microns in diameter
$PM_{2.5}$	particulate matter up to 2.5 microns in diameter
Project	Revisions to Title 19 – Kern County Zoning Ordinance (2025 A), Focused on Local Permitting of Oil and Gas Activities
Project well	wells permitted by the County pursuant to the Kern County Zoning Ordinance
Rose Study	*Digging into Detectability: Uncovering How Temperature Influences Detection Probability of the Fossorial Temblor Legless Lizard* (Rose et al. 2024)
SB	Senate Bill
SJV	San Joaquin Valley
SJVAB	San Joaquin Valley Air Basin
SJVAPCD	San Joaquin Valley Air Pollution Control District
SoCalGas	Southern California Gas Company
SWRCB	State Water Resources Control Board
TLL	Temblor legless lizard(s)
USFWS	U.S. Fish and Wildlife Service
VERA	Voluntary Emission Reduction Agreement
VOC	volatile organic compound
WST	well stimulation treatment

Chapter 7

Response to Comments

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Chapter 7

Response to Comments

7.1 Introduction

7.1.1 Purpose

As defined by Section 15050 of the California Environmental Quality Act (CEQA) Guidelines, the Kern County Planning and Natural Resources Department is serving as "lead agency" for preparation of the Final Second Supplemental Recirculated Environmental Impact Report (SSREIR) for the proposed Revisions to Title 19 – Kern County Zoning Ordinance (2025 A), Focused on Oil and Gas Local Permitting ("Project" or "proposed Project"). The Final SSREIR presents the environmental information and analyses that have been prepared for the Project, including comments received addressing the adequacy of the Draft SSREIR, and responses to those comments. The Draft SSREIR was circulated for a 45-day public review period. All comments received during the public review period have been included and responses provided for the circulation. In addition to the responses to comments, clarifications, corrections, or revisions have been made to the Draft SSREIR and are included in this Chapter 7, Response to Comments. The Final SSREIR, which includes the responses to comments, the Draft SSREIR, and the Mitigation Monitoring and Reporting Program, will be used by the Kern County Planning Commission (Planning Commission) and Kern County Board of Supervisors (Board of Supervisors) in the decision-making process for the Project.

7.1.2 Public Process

Kern County prepared and circulated a Notice of Preparation (NOP) to the State Clearinghouse (SCH# 2013081079), public agencies, special districts, responsible and trustee agencies, and other interested parties for review and comment beginning on March 22, 2024, and ending on April 22, 2024. In conjunction with this public notice, Kern County hosted a scoping meeting at 1:30 p.m. on April 3, 2024, at the Kern County Planning and Natural Resources Department, located at 2700 M Street, Suite 100, Bakersfield, California. The purpose of the meeting was to introduce the Project and to solicit input from agencies, organizations, and other interested parties regarding the proposed Project, alternatives, mitigation measures, and environmental impacts to be analyzed in the SSREIR. Comments received during the 30-day review period were used in the preparation of the Draft SSREIR. During the April 3, 2024, scoping meeting, eight members of the public were present, of which four provided comments. A summary of comments from the April 3, 2024, scoping meeting is included in Section 2.4.2, Introduction, of the Draft SSREIR. The NOP and comment letters received are included as Appendix B of the Draft SSREIR.

The Draft SSREIR was prepared, incorporating public and agency responses to the NOP and scoping process. The Draft SSREIR was circulated for review and comment to appropriate

agencies and additional individuals and interest groups that have requested to be notified of Environmental Impact Report (EIR) projects. Per Section 15105 (Public Review Period for a Draft Environmental Impact Report (DEIR) or a Proposed Negative Declaration or Mitigated Negative Declaration) of the CEQA Guidelines, Kern County provided a 45-day public review period on the Draft SSREIR, which began on March 14, 2025, and ended on April 28, 2025. Within this timeframe, a virtual public briefing workshop was held on April 15, 2025, to inform interested parties about the structure, contents, and opportunities to comment on the Draft SSREIR. The virtual public briefing included both a verbal and PowerPoint presentation. Spanish language translation of the verbal presentation was available to participants by closed captioning and via a call-in phone number. The virtual public briefing workshop materials, including instructions for participating, the PowerPoint presentation slides, and transcripts, are included in Section 7.2.2. No comments were received from the public during the virtual public briefing workshop for the SSREIR. A recording of the virtual public briefing is available on the Kern County Planning and Natural Resources website at: https://psbweb.kerncounty.com/planning/pdfs/eirs/oil_gas_ssreir/workshop/Microsoft_Live_Event_Recording_Public_Briefing_Workshop_for_SSREIR.mp4.

7.1.3 Revised Summary of Impacts, Mitigation Measures, and Significance Conclusions and Errata

This section includes a listing of all errata/revisions made to the text of the Draft SSREIR. Amended text is identified by page number. Additions to the Draft SSREIR text are shown with **underline**, and text removed from the Draft SSREIR is shown with ~~**strikethrough**~~. The errata/revisions as outlined below fall within the scope of the original project analysis included in the Draft SSREIR and do not result in an increase to any identified impacts or produce any new impacts. No new significant environmental impacts would result from the changes. Therefore, no significant revisions have been made that would require recirculation of the Draft SSREIR pursuant to CEQA Guideline 15088.5 (Recirculation of an EIR Prior to Certification).

Chapter 1, Executive Summary, Page 1-53, Table 1-5

Chapter 4.3 Air Quality Page 4.3-165

MM 4.3-6 The following measures shall be implemented to address Valley Fever and declared pandemics:

A. Equipment, vehicles, and other items shall be thoroughly cleaned of dust before they are moved offsite to other work locations.

B. Wherever possible, grading and trenching work shall be phased so that earth-moving equipment is working well ahead or downwind of workers on the ground.

C. The area immediately behind grading or trenching equipment shall be sprayed with water before ground workers move into the area.

D. **In the event that a water truck runs out of water before dust is sufficiently dampened, ground workers exposed to dust shall leave the area until a truck can resume water spraying.**

E. ~~**A.**~~ Applicants shall include in their Worker Environmental Awareness Program information on how to recognize the symptoms of Valley Fever and to promptly report suspected symptoms of work-related Valley Fever to a supervisor. A Valley Fever informational handout shall be provided to all onsite construction personnel. The handout shall, at a minimum, provide information regarding the symptoms, health effects, preventative measures, and treatment. Additional information and handouts can be obtained by contacting the Kern County Public Health Services Department.

F. Onsite personnel shall be trained on the proper use of personal protective equipment, including respiratory equipment. National Institute for Occupational Safety and Health (NIOSH)-approved respirators shall be to onsite personal, upon request, as part of the Worker Environmental Awareness Training Program. **When exposure to dust is unavoidable, appropriate NIOSH-approved respiratory protection shall be made available for affected workers. If respiratory protection is deemed necessary, employers must develop and implement a respiratory protection program in accordance with the California Occupational Safety and Health Administration's Respiratory Protection standard (8 CCR 5144).**

G. Applicants shall pay a $25 fee per individual well on Oil and Gas Conformity Reviews to be used by the Kern County Public Health Services Department for the specific purposes of continued Valley Fever education and outreach.

H. Applicants shall implement all orders related to any declared pandemic or any other pandemic mandated by Kern County Public Health on well sites and related to worker safety.

Chapter 1, Executive Summary, Pages 1-93 – 1-188

Delete pages 1-93 – 1-188 which are duplicate pages of Table 1-5

Omitted from Table 1-5 Chapter 1, Executive Summary, Page 1-68, Table 1-5

MM 4.7-4 Each Applicant shall offset all greenhouse gas emissions not covered by the Cap-and-Trade program or other mandatory greenhouse gas emission reduction measures through Applicant reductions of greenhouse gas emissions as verified by Kern County, through acquisition of offset credits from the California Air Pollution Control Officers Association Exchange Register or other third party greenhouse gas reductions, with consultation as to the validity of methodology for calculating reductions verified by the San Joaquin Valley Air Pollution Control District and accepted by Kern County, or through inclusion in an Emission Reduction Agreement, to offset Project-related greenhouse gas emissions that are

not included in the Cap-and-Trade program to assure that no net increase in greenhouse gas emissions from the Project.

Chapter 2, Introduction, Page 2-23, at the end of the list of Local Agencies, add:

A. Central Valley Flood Protection Board

Section 4.3, Air Quality, Page 4.3-6, footnote (h) at the end of Table 4.3-1

(h) On December 14, 2012, the national annual $PM_{2.5}$ primary standard was lowered from 15 µg/m^3 to 12 µg/m^3. Existing national 24-hour $PM_{2.5}$ standards (primary and secondary) were retained at 35 µg/m^3, as was the annual secondary standard of 15 µg/m^3. The existing 24-hour PM_{10} standards (primary and secondary) of 150 µg/m^3 also were retained. The form of the annual primary and secondary standards is the annual mean, averaged over three years. **On February 7, 2024, the EPA further lowered the national annual $PM_{2.5}$ primary standard from 12 µg/m^3 to 9 µg/m^3.**

Section 4.3, Air Quality, Page 4.3-7, footnote (d) at the end of Table 4.3-2

(d) The SJV is designated nonattainment for the 1997 $PM_{2.5}$ standard. **On April 23, 2025, the SJVAPCD announced that the region has attained the 1997 $PM_{2.5}$ standard.** The EPA designated the SJV as nonattainment for the 2006 $PM_{2.5}$ standard on November 13, 2009.

Section 4.3, Air Quality, Page 4.3-165

MM 4.3-6 The following measures shall be implemented to address Valley Fever and declared pandemics:

A. Equipment, vehicles, and other items shall be thoroughly cleaned of dust before they are moved offsite to other work locations.

B. Wherever possible, grading and trenching work shall be phased so that earth-moving equipment is working well ahead or downwind of workers on the ground.

C. The area immediately behind grading or trenching equipment shall be sprayed with water before ground workers move into the area.

D. In the event that a water truck runs out of water before dust is sufficiently dampened, ground workers exposed to dust shall leave the area until a truck can resume water spraying.

E. ~~**A.**~~ Applicants shall include in their Worker Environmental Awareness Program information on how to recognize the symptoms of Valley Fever and to promptly report suspected symptoms of work-related Valley Fever to a supervisor. A Valley Fever informational handout shall be provided to all onsite construction personnel. The handout shall, at a minimum, provide information regarding the symptoms, health effects, preventative measures,

and treatment. Additional information and handouts can be obtained by contacting the Kern County Public Health Services Department.

F. Onsite personnel shall be trained on the proper use of personal protective equipment, including respiratory equipment. National Institute for Occupational Safety and Health (NIOSH)-approved respirators shall be to onsite personal, upon request, as part of the Worker Environmental Awareness Training Program. **When exposure to dust is unavoidable, appropriate NIOSH-approved respiratory protection shall be made available for affected workers. If respiratory protection is deemed necessary, employers must develop and implement a respiratory protection program in accordance with the California Occupational Safety and Health Administration's Respiratory Protection standard (8 CCR 5144).**

G. Applicants shall pay a $25 fee per individual well on Oil and Gas Conformity Reviews to be used by the Kern County Public Health Services Department for the specific purposes of continued Valley Fever education and outreach.

H. Applicants shall implement all orders related to any declared pandemic or any other pandemic mandated by Kern County Public Health on well sites and related to worker safety.

Section 4.17, Utilities and Service Systems, Page 4.17-32

Figure ~~1~~4.17-2

Chapter 10, Bibliography, Page 10-3

Remove bold underline from the following source:

Kern Council of Governments (COG). 2014. Draft 2014 Regional Transportation Plan/Sustainable Communities Strategy. Accessed May 27, 2014. http://www.kerncog.org/regional-transportation-plan.

Chapter 10, Bibliography, Page 10-7

California Oil and Gas Public Health Rulemaking Scientific Advisory Panel. 2021. Letter to David Shabazian, California Department of **~~Transportation~~Conservation** re Response to CalGEM Questions for the California Oil and Gas Public Health Rulemaking Scientific Advisory Panel. October 1, 2021.

7.2 Response to Comments

7.2.1 Virtual Public Briefing Workshop (April 15, 2025)

As described in Section 7.1.2, a virtual public briefing workshop was held on April 15, 2025, via Microsoft Teams Live Event. The purpose of the public workshop was to inform interested parties about the structure, contents, and opportunities to comment on the Draft SSREIR.

The public briefing workshop included a verbal presentation and PowerPoint presentation. Spanish language translation of the presentation was available to participants by closed captioning and via a call-in phone number. The virtual public briefing workshop materials, including instructions for participating, PowerPoint presentation slides, and transcripts, are included in this section of the Response to Comments chapter, below. A recording of the public workshop is available on the Kern County Planning and Natural Resources Department website at: https://psbweb.kerncounty.com/planning/pdfs/eirs/oil_gas_ssreir/workshop/Microsoft_Live_Event_Recording_Public_Briefing_Workshop_for_SSREIR.mp4.

During the public workshop, participants were able to submit comments and questions in writing through the Microsoft Live Event chat feature. No verbal or written comments were provided during the public briefing workshop.

April 15, 2025, Public Workshop Materials

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Teams Live Event for
The Draft Second Supplemental Recirculated Environmental Impact Report (SSREIR) (March 2025) Revisions to Title 19 – Kern County Zoning Ordinance Code – 2025(A), Focused on Oil and Gas Local Permitting
Workshop Meeting Instructions

If you are having trouble participating in the Microsoft Live Event, please email:

Karen Tiscareno
tiscarenok@kerncounty.com

Meeting Date and Time:

Tuesday, April 15, 2025 at 10:00 am PST

Link to join:

https://tinyurl.com/OGSSREIR-Wkshp

Spanish Language Translation

Spanish language translation services will be provided in two ways:

1. **Microsoft Live Events Closed Caption** - Closed Captions are available in Spanish by clicking on the CC at the bottom right of the presentation screen. To select Spanish language closed captioning click on the gear icon located next to the closed captioning icon as shown . The County of Kern cannot ensure the accuracy of translation through Microsoft's Live Event closed captioning service.
2. **Live Interpretation via Conference Call** - To listen to a Live Interpreter, call the phone number below.

   Phone #: 1-877-309-2073
   Access Code: 155-019-885 #

   Attendees will need access to 2 devices to watch the Live Event and listen to the live interpretation. Live interpretation will only be available for Staff's presentation, no verbal comments will be received during the event. Therefore, the Live Interpreter will not have the ability to translate questions or comments from Attendees.

Participating in the Virtual Meeting

Participating - To join the Virtual Meeting paste the URL above into your web browser address bar. The URL will direct you to a Microsoft Teams home page that will give you the following 3 options: Download the Teams app; Launch the Teams app if already installed; Watch on the web. Choose any of these options to join the meeting.

Please note the following:

- The time needed to download the Teams App may vary depending on a number of factors including your internet or data connection speed and the device memory capacity.

- If you have the Teams App already downloaded on your device the meeting will automatically open in your Teams App.

- If joining the meeting from a mobile device, Safari is not a supported browser. We recommend you use an internet connected computer for the best experience.

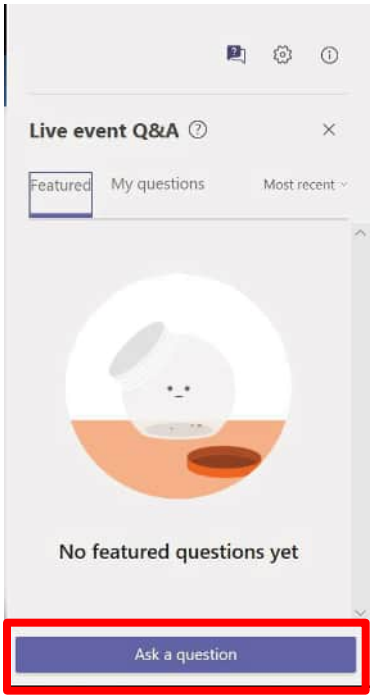
- For more information about supported browsers, device requirements and more, please visit the Microsoft Office article at the following link:

  https://support.microsoft.com/en-us/office/attend-a-live-event-in-microsoft-teams-a1c7b989-ebb1-4479-b750-c86c9bc98d84

Commenting - Commenting on the Draft SSREIR can be accomplished by providing written comments to the contact information below.

Keith Alvidrez, Planner II
OG-SSREIRComments@kerncounty.com
alvidrezk@kerncounty.com
2700 M Street, Suite 100
Bakersfield, CA 93301
(661) 862-5015

During the Virtual Meeting, questions can be submitted via the Q&A tab (shown below) on the "Right Pane" of the presentation screen. The Q&A tab should also be used by Interested Parties and Agencies to submit, for the record, their participation and intent to provide written comments. No verbal comments will be accepted during the Virtual Meeting.



FAQs

Q: I don't see the "Ask a Question" button on the presentation screen, how do I ask a question?

A: The "Right Pane" where the Q&A panel is located may not be available in full screen viewing mode.

To change from full screen viewing mode press either the Esc key or the minimize arrows  at the bottom right corner. Next click on the Q&A icon  of the "Right Pane". The Q&A panel should now open.

Q: Is there a limit to how long my question can be using the Q&A pan

A: Yes, a maximum of 2,400 characters per question are allowed by Microsoft.

Q: Are questions and comments anonymous?

A: Questions may be submitted anonymously, or you may provide your name to show with the question. For more information on using the Q&A tool please visit the Office Support article at the following link:

https://support.microsoft.com/en-us/office/participate-in-a-q-a-in-a-live-event-in-microsoft-teams-01d57b8c-23b9-4cff-adc0-4e57618b59b4

Q: I keep getting a prompt to download the Microsoft Teams App, do I need to download the App?

A: If you are using a supported web browser such as Chrome (last 3 versions), Edge RS2 and later, Firefox (Last 3 versions), or Safari, you do not need to download the Microsoft Teams App. Please see the Microsoft Live Events support article at the following link for information about supported browsers, and device requirements.

https://support.office.com/en-us/article/attend-a-live-event-in-teams-a1c7b989-ebb1-4479-b750-c86c9bc98d84

Q: If I already have the Microsoft Teams App downloaded on my device will the Virtual Meeting Live Event open in my app?

A: Yes, if you have the app the event will open in your Teams App. Be sure you are using the Q&A panel in the "Right Pane" to ask questions or submit your name for the record and not the Teams Chat feature on the left of the screen.

Evento en vivo de Teams para

El Borrador del Segundo Informe Suplementario de Impacto Ambiental Recirculado (SSEIR, por sus siglas en ingles)

(Marzo 2025) Revisiones al Título 19 – Ordenanza de Zonificación del Condado de Kern Codigo – 2025(A),

Enfocado en los Permisos Locales de Petróleo y Gas

Instrucción de Reunión de Taller

Si tiene problemas participando en el evento de Microsoft Live, envíe un correo electrónico a:

Karen Tiscareno
tiscarenok@kerncounty.com

Fecha y hora de la reunión:

martes, 15 de abril de 2025 a las 10:00am PST

Enlace para unirse:

https://tinyurl.com/OGSSREIR-Wkshp

Traducción en Español

Los *servicios de traducción al español se brindarán en dos maneras:*

1. **Subtítulos cerrados de Microsoft Live** - los subtítulos están disponibles en español presionando el icono CC en la esquina inferior derecha de la pantalla. Para seleccionar subtítulos en español, presione el icono de configuración ubicado al lado del icono de subtítulos como se muestra . El Condado de Kern no puede garantizar la precisión de la traducción a través del servicio de subtítulos provisto por Microsoft Live.
2. **Interpretación en vivo a través de una conferencia telefónica** - para escuchar a un intérprete en vivo, llame al número de teléfono que aparece a continuación:

   Numero de teléfono: 1-877-309-2073
   Código de Acceso: 155-019-885 #

   Los participantes necesitarán acceso a 2 dispositivos para ver el evento en vivo y escuchar la interpretación. La interpretación en vivo solo estará disponible para la presentación del personal; no se recibirán comentarios verbales durante el evento, por lo tanto, el intérprete no estará disponible para traducir preguntas o comentarios de los participantes.

Participación en la reunión virtual

Participación- para unirse a la reunión virtual de alcance, copie y pegue la URL en la casilla de su navegador web. La URL lo dirigirá a una página de inicio de Microsoft Teams que le dará las siguientes 3 opciones: descargar la aplicación Teams; ingresar con su inicio de sesión de Microsoft; ver en el sitio web. Elija cualquiera de estas opciones para unirse a la reunión.

Tenga en cuenta lo siguiente:

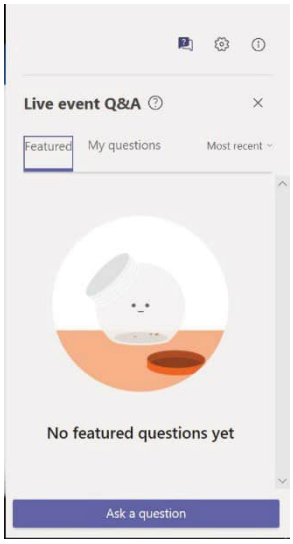
- El tiempo necesario para descargar la aplicación Teams puede variar dependiendo de una serie de factores, como la velocidad de su conexión a internet y la capacidad de memoria del dispositivo.
- Si ya tiene descargada la aplicación Teams en su dispositivo, la reunión se abrirá automáticamente en su aplicación Teams.
- Si se une a la reunión desde un dispositivo móvil, Safari no es un navegador compatible. Le recomendamos que use una computadora conectada a Internet para obtener la mejor experiencia.
- Para obtener más información sobre los navegadores compatibles, los requisitos del dispositivo y más, visite el artículo de Microsoft Office en el siguiente enlace:

  https://support.office.com/en-us/article/attend-a-live-event-in-teams-a1c7b989-ebb1-4479-b750-c86c9bc98d84

Comentarios – los comentarios sobre el borrador SSREIR (por sus siglas en ingles) se pueden lograr presentándolos por escrito a la información de contacto a continuación.

Keith Alvidrez, Planner II
alvidrezk@kerncounty.com
2700 M Street, Suite 100
Bakersfield, CA 93301
(661) 862-5015

Durante la reunión virtual de alcance, se pueden enviar preguntas a través de la pestaña Q&A (que se muestra a continuación) en el "Panel derecho" de la pantalla. Las partes y agencias interesadas también deben utilizar la pestaña Q&A para hacer constar su participación e intención de proporcionar comentarios por escrito. No se aceptarán comentarios verbales durante la reunión virtual de alcance.



Preguntas frecuentes

P: No veo el botón “Ask a Question” ("Hacer una pregunta") en la pantalla de presentación, ¿cómo hago una pregunta?

R: El "Panel derecho" donde se encuentra el panel de Q&A puede no estar disponible en modo de visualización de pantalla completa. Para cambiar del modo de visualización de pantalla completa, presione la tecla Esc o las flechas de minimiz  en la esquina inferior derecha. Luego presione en el icono de Q&A  en la parte superior del “Panel derecho”. El panel de Q&A ahora debería abrirse.

P: ¿Existe un límite para la duración de mi pregunta en el panel de Q&A?

R: Sí, Microsoft permite un máximo de 2,400 caracteres por pregunta.

P: ¿Son anónimas las preguntas y los comentarios?

R: Las preguntas pueden enviarse de forma anónima o puede proporcionar su nombre con la pregunta. Para obtener más información sobre el uso de la herramienta de preguntas y respuestas, visite el artículo de soporte técnico de Microsoft Office en el siguiente enlace:

https://support.microsoft.com/en-us/office/participate-in-a-q-a-in-a-live-event-in-microsoft-teams-01d57b8c-23b9-4cff-adc0-4e57618b59b4

P: Sigo recibiendo un mensaje para descargar la aplicación Microsoft Teams, ¿necesito descargar la aplicación?

R: Si utiliza un navegador web compatible como Chrome, Firefox o Edge, no es necesario descargar la aplicación Microsoft Teams. Consulte el artículo de soporte técnico de Microsoft Live Events en el siguiente vínculo para obtener información sobre los exploradores compatibles y los requisitos del dispositivo.

https://support.office.com/en-us/article/attend-a-live-event-in-teams-a1c7b989-ebb1-4479-b750-c86c9bc98d84

P: Si ya tengo la aplicación Microsoft Teams descargada en mi dispositivo, ¿se abrirá la reunión virtual de alcance en vivo en mi aplicación?

R: Sí. Si tiene la aplicación, el evento se abrirá en la aplicación de Teams. Asegúrese de que está utilizando el panel de Q&A en el "Panel derecho" para hacer preguntas o enviar su nombre para el registro y no la función de chat de Teams a la izquierda de la pantalla.

Kern County Draft Second Supplemental Recirculated Environmental Impact Report (SSREIR) (March 2025) Revisions to Title 19 – Kern County Zoning Ordinance Code – 2025(A), Focused on Oil and Gas Local Permitting

WORKSHOP

STARTS AT

10:00

INSTRUCTIONS : KERNPLANNING.COM

APRIL 15, 2025

Kern County Draft Second Supplemental Recirculated Environmental Impact Report (SSREIR) (March 2025) Revisions to Title 19 – Kern County Zoning Ordinance Code – 2025(A), Focused on Oil and Gas Local Permitting

WORKSHOP

Lorelei H. Oviatt, AICP

Director

Kern County Planning and Natural Resources Department

APRIL 15, 2025

Participation in this meeting

- The Q&A button allows you to enter your name with questions.
- Verbal comments can not be accommodated
- Problems? Email Karen Tiscareno at: TiscarenoK@kerncounty.com
- Spanish translation is available
  - Closed Caption – Press CC at the bottom right corner of the screen and use the Gear icon next to the CC icon to change the language setting.
  - Spanish Translation (verbal) – Can be accessed by calling:

    Phone #: 1-877-309-2073

    Access Code: 155-019-885

Purpose of the Meeting

- Present the Project and the Draft Second Supplemental Recirculated Environmental Impact Report (SSREIR)
- Review the changes to the document
- Present the public process and how to comment

California Environmental Quality Act CEQA

- TO INFORM decision makers about significant environmental effects.
- TO IDENTIFY ways environmental damage can be avoided.
- TO PREVENT avoidable environmental damage.
- TO DISCLOSE to the public why a project is approved even if it leads to environmental damage.

Project Summary

- Revisions to Title 19 – Kern County Zoning Ordinance 2025(A), Focused on Oil and Gas Local Permitting
- 2015 Ordinance, SREIR, and Kern County Oil and Gas Permitting ended on January 26, 2023.
- Ordinance rescinded by Board of Supervisors on October 8, 2024.
- Current Ordinance has no required local permit, has some development standards, and require setback to comply with current law. All permitting from the State – CalGEM.
- Environmental review directed by court to address 3 subject area and reconsider adoption of the Zoning Ordinance by Planning Commission and Board of Supervisors.

Structure Summary

- Volumes 1 and 2

  Second Supplemental Recirculated Analysis (2025)

- Volumes 3 to 10

  2015 Final EIR, Appendices, 2018 Final Supplemental EIR, and Addendum (2020/2021)

Available online at: https://kernplanning.com/final-environmental-impact-report-revisions-kern-county-zoning-ordinance-2015-c-focused-oil-gas-local-permitting/

Structure Summary

- 2025 Changes shown in **Bold**, underline and ~~strikeout.~~
- 2020 Changes shown in *Italics*, underline and ~~strikeout.~~
- 2015 text shown in unmodified underline and ~~strikeout.~~

Available online at: https://kernplanning.com/final-environmental-impact-report-revisions-kern-county-zoning-ordinance-2015-c-focused-oil-gas-local-permitting/

SSREIR Content

- Consider Readoption of the 2015 Oil and Gas Ordinance with minor modifications.

- Addresses 3 court mandated deficiencies in the SREIR:
  - Appropriate use of Agricultural Easements
  - Multiwell – Setbacks from sensitive receptors
  - Impacts of water supply when drilling to disadvantaged communities

Agricultural Resources

Mitigation Measure 4.2-1

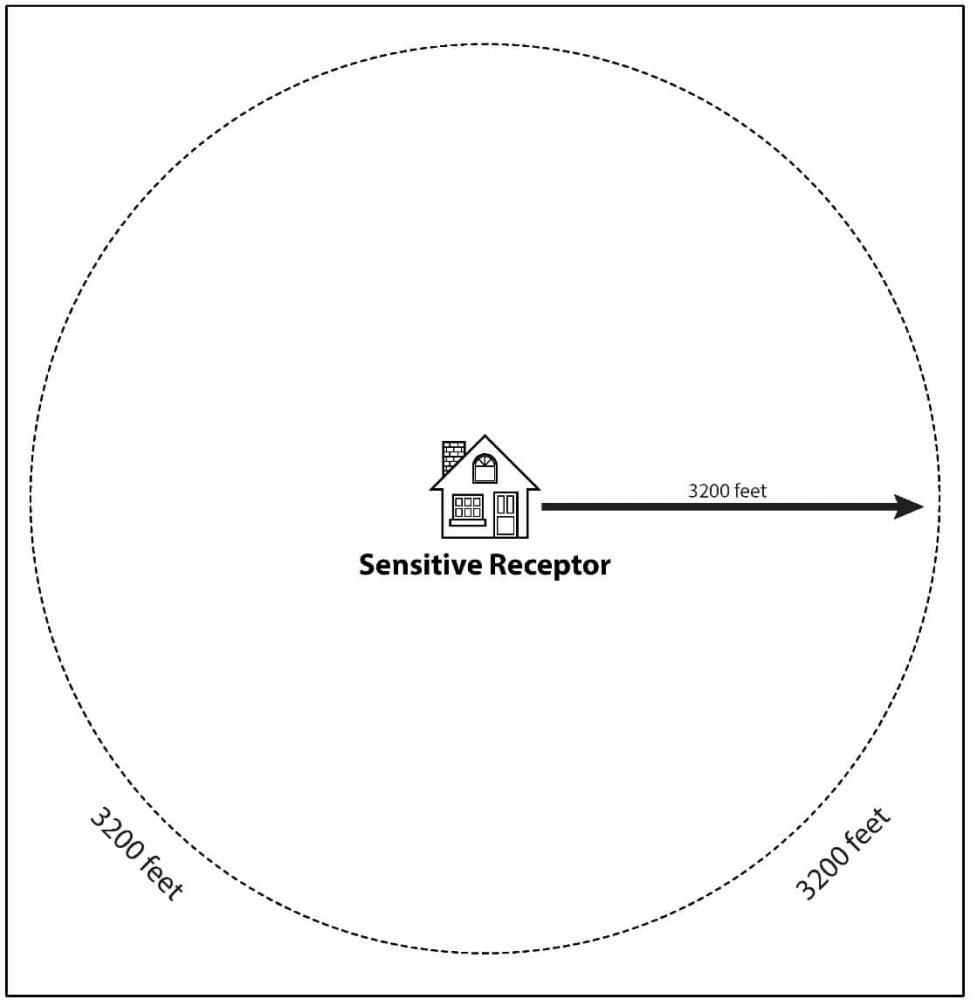
- No change to previously adopted site limitations on designation farmland
- Site Limitation per subarea (gross)

  West – 2.0 acres Central – 3.0 acres East – 1.2 acres
- No changes to previously adopted mandatory legacy equipment removal
- Added the requirement for applicant to provide an executed permanent agricultural easement at 1:1 of disturbance for qualified lands in Kern County held by a qualified public or non-profit entity.
- Final mitigation is agricultural easement plus legacy equipment removal.

Air Quality

- Setbacks – Sensitive Receptors
- Implementation of SB 1137 – Oil and Gas Setbacks
- New wells – 3,200 feet from sensitive receptors
- Only reworks for health and safety and abandonments permitted in Health Protection Zone
- Ordinance changed to confirm to SB 1137
- Definition of sensitive receptors from SB 1137 implemented
- SSREIR mitigation and ordinance will not apply within the 3,200-foot Health Protection Zone managed by CalGEM. No local permit required; only a CalGEM permit.
- https://www.conservation.ca.gov/calgem/Pages/SB1137.aspx

SB 1137
Health Protection Zone



No New Drilling
Reworks Only for Public Health and Safety
Abandonments

Water Supply

- MM 4.17-3 Amended.
- Requires specific information on source and location of water used for activity.
- Requires payment of $9,732 per individual new well.
- Disadvantaged Communities Water Relief Fund
- Support State Water Board Mandatory Consolidation or Extension of Services for Disadvantaged Communities – https://tinyurl.com/y7wzkzx7

Water Supply

- Supports as match for DWR grants and capacity building Kern County Central Valley Projects
- Only identified consolidation projects qualify
- $11.7 million to $26.3 million – Depending on permits
- Managed by Public Health

Opportunities to Participate

- Draft SSREIR – 45 Days

  Review Period Ends – Monday, April 28th, 2025
- Response to Comments released – Prior to Planning Commission Hearing
- Planning Commission (Public Hearing) – Thursday, June 12, 2025
  - Staff Report Released – Friday, June 6, 2025
- Board of Supervisors (Public Hearing) – Proposed end of June.
- Comments can be made throughout the entire process up until the Board of Supervisors votes at the public hearing.
- Request to be placed on mailing list
  - Keith Alvidrez, Staff Planner at: AlvidrezK@kerncounty.com

How to Make a Comment

- Written comments can be submitted to the Staff Planner at:

  OG-SSREIRComments@kerncounty.com

- Submitted by U.S. Mail or delivery to:

  Kern County Planning and Natural Resources Department

  2700 M Street, Suite 100

  Bakersfield, CA 93301

Documents available online at:

https://kernplanning.com/final-environmental-impact-report-revisions-kern-county-zoning-ordinance-2015-c-focused-oil-gas-local-permitting/

Further Information

- Kern County Planning and Natural Resources Department:

  https://kernplanning.com/

- SSREIR Volumes available online at:

  https://kernplanning.com/final-environmental-impact-report-revisions-kern-county-zoning-ordinance-2015-c-focused-oil-gas-local-permitting

- Staff Planner

  Keith Alvidrez

  Email: AlvidrezK@kerncounty.com

  Phone: (661) 862-5015

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7.2.2 State Agencies

1: Central Valley Flood Protection Board

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Docusign Envelope ID: 2EE0981A-0458-4087-9C98-A352BD4A4206

STATE OF CALIFORNIA – CALIFORNIA NATURAL RESOURCES AGENCY **GAVIN NEWSOM**, GOVERNOR

CENTRAL VALLEY FLOOD PROTECTION BOARD
3310 El Camino Ave., Ste. 170
SACRAMENTO, CA 95821
(916) 574-0609

April 18, 2025

Keith Alvidrez
Planner II
Kern County Planning and Natural Resources Department
2700 M Street, Suite 100
Bakersfield, CA 93301
AlvidrezK@kerncounty.com

Subject: Comments for the Draft Second Supplemental Recirculated Environmental Impact Report, Revisions to Title 19 - Kern County Zoning Ordinance (2025A) Focused on Oil and Gas Local Permitting Project, SCH# 2013081079, Kern County

Dear Keith Alvidrez,

The Central Valley Flood Protection Board (Board) appreciates the opportunity to comment on Draft Second Supplemental Recirculated Environmental Impact Report (DSSREIR) for the proposed Revisions to Title 19 - Kern County Zoning Ordinance (2025A) Focused on Oil and Gas Local Permitting Project (proposed project). 0001-1

The proposed project involves reconsidering the adoption of an oil and gas permit streamlining ordinance. The proposed project boundary includes the Kern River, Kern River Channel, Kern River Flood Canal, Kern River Bypass Channel, Main Drain Canal, and West Site Canal, which are within the Board's permitting authority. Therefore, an encroachment permit may be required. Board permit information, including information on how to schedule a pre-application meeting with Board staff, is available on the Permitting at the Central Valley Flood Protection Board website.

Please include language in appropriate mitigation measures for Impacts 4.9-3, 4.9-4, 4.9-5, 4.9-8, and 4.9-9 that project applicants will comply with California Code of Regulations, Title 23, Division 1 requirements and Central Valley Flood Protection Board encroachment permit requirements if construction activities are within regulated streams and designated floodways within the Board's permitting authority. 0001-2

California Code of Regulations, Title 23 provides standards that govern the design and construction of projects that affect the flood control works and floodways. Board staff recommends that you and proposed project applicants review Title 23 Standards, including Sections 112 (Streams Regulated and Nonpermissible Work Periods), 115 (Dredged, Spoil, and Waste Material), 116 (Borrow and Excavation Activities – Land and Channel), 121 (Erosion Control), 122 (Irrigation and Drainage Ditches, Tile Drains, and Septic Systems), 123 (Pipelines, Conduits, and Utility Lines), 124 (Abandoned Pipelines and Conduits), 126 (Fences and Gates), 129 (Water, Oil, and Gas Wells), and 131 (Vegetation). Any deviation or variation from these standards will require approval from the Board.

Docusign Envelope ID: 2EE0981A-0458-4087-9C98-A352BD4A4206

Responsibility of the Central Valley Flood Protection Board

The Board is the State's regulatory agency responsible for enforcing appropriate standards for the construction, maintenance, and operation of the flood control system that protects life, property, and habitat in California's Central Valley. The Board operates under authorities as described in California Water Code (Water Code), which requires the Board to oversee future modifications or additions to facilities of the State Plan of Flood Control (SPFC). 0001-3

Encroachment Permit

Per California Code of Regulations, Title 23, Waters, Division 1 (Title 23), Section 6, approval by the Board is required for all proposed work or uses, including the alteration of levees within any area for which there is an Adopted Plan of Flood Control within the Board's jurisdiction. In addition, Board approval is required for all proposed encroachments within a floodway, on adjacent levees, and within any Regulated Stream identified in Title 23, Table 8.1. Specifically, Board jurisdiction includes the levee section, the waterward area between project levees, a minimum 10-foot-wide strip adjacent to the landward levee toe, the area within 30 feet from the top of bank(s) of Regulated Streams, and inside Board's Designated Floodways. Activities outside of these limits which could adversely affect Federal-State flood control facilities, as determined by Board staff, are also under the Board's jurisdiction. Permits may also be required for existing unpermitted encroachments or where it is necessary to establish the conditions normally imposed by permitting, including where responsibility for the encroachment has not been clearly established or ownership or uses have been changed. 0001-4

Federal, state, and local agency permits, certification, or approvals may also be required. Federal permits, such as USACE Section 404, may be required for the proposed project applicants. State approvals may include, but are not limited to, California Department of Fish and Wildlife's Lake and Streamed Alteration Agreement and Central Valley Regional Water Quality Control Board's Section 401 Water Quality Certification and/or Waste Discharge Requirement. Proposed project applicants must obtain all authorizations that the proposed project may require.

Flood Impacts Analysis

Pursuant to Section 15 of Title 23, the Board may deny an encroachment permit if the proposed project could:

- Jeopardize directly or indirectly the physical integrity of levees or other works
- Obstruct, divert, redirect, or raise the surface level of design floods or flows, or the lesser flows for which protection is provided
- Cause significant adverse changes in water velocity or flow regimen
- Impair the inspection of floodways or project works
- Interfere with the maintenance of floodways or project works
- Interfere with the ability to engage in flood fighting, patrolling, or other flood emergency activities
- Increase the damaging effects of flood flows
- Be injurious to, or interfere with, the successful execution, functioning, or operation of any adopted plan of flood control
- Adversely affect the SPFC, as defined in Water Code

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The Board, as a Responsible Agency under the California Environmental Quality Act (CEQA), will review and consider the environmental effects of the proposed project identified in the DSSREIR, and will reach its own conclusions on whether and how to approve the project involved (14 CCR 15096, subd. (a)). This includes direct impacts to facilities under construction, as well as indirect impacts from the proposed project to surrounding facilities. Accordingly, the comments herein are intended to assist in the development of a robust CEQA document capable of supporting the Board's permitting process. 0001-5

Closing

The potential risks to public safety, including increased flood risks, need to be considered when developing proposed projects that seek to modify flood control works or the hydrology of the water ways. Board staff is available to discuss any questions you have regarding the above comments. Please contact Jordan Robbins at (916) 524-3454, or via email at Jordan.Robbins@CVFlood.ca.gov if you have any questions. 0001-6

Sincerely,

Jamie Silva

Jamie Silva
Environmental Program Manager

cc: Office of Land Use and Climate Innovation
State.Clearinghouse@opr.ca.gov

Kern County Planning and Natural Resources Department
OG-SSREIRComments@kerncounty.com

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Comment 001
Central Valley Flood Protection Board

0001-1

The comment states that the project includes locations within the permitting authority of the Central Valley Flood Protection Board (Board) and therefore may require an encroachment permit. To the extent that any Project oil and gas activities approved by the County in an Oil and Gas Conformity Review or Minor Activity Review may encroach on regulated streams and designated floodways within the Board's permitting authority under applicable regulations, applicants will be responsible for obtaining and complying with the requirements of such encroachment permits and regulations.

0001-2

The comment requests that mitigation measures for Impacts 4.9-3, 4.9-4, 4.9-5, 4.9-8, and 4.9-9 include language expressly referring to compliance with regulatory standards and Board encroachment permit requirements. The comment does not identify any inadequacies in impact analysis or mitigation effectiveness regarding these impacts. As noted above, applicants will be responsible for obtaining and complying with the requirements of encroachment permits and regulations. Moreover, mitigation measure 4.9-1, which applies to each of the impacts referenced in the comment, provides that "the applicant shall comply with all applicable federal, state, regional, and local agency water quality protection laws and regulations, and commonly utilized industry standards, including (where applicable) obtaining coverage under the stormwater construction general permit and industrial general permit issued by the State Water Resources Control Board (SWRCB) and complying with industry stormwater management standards for construction and operational activities." Additional language in mitigation measures is not necessary.

0001-3

The comment describes the regulatory jurisdiction of the Board. This comment does not state a specific concern related to the adequacy of the SSREIR and therefore does not require a detailed response.

0001-4

The comment describes regulatory requirements for encroachment permits and regulatory criteria by which the Board may deny an encroachment permit. This comment is noted. The comment does not state a specific concern related to the adequacy of the SSREIR and therefore does not require a detailed response.

The comment also notes that permits, certifications, or approvals for project activities may be required from other agencies, including the U.S. Army Corps of Engineers, California Department of Fish and Wildlife (CDFW), and Central Valley Regional Water Quality Control Board. The roles of these agencies are acknowledged in the SSREIR; see, e.g., Draft SSREIR Section 2.7, Responsible Agencies.

0001-5

This comment is noted. For discussion of the role of responsible agencies when considering discretionary approvals, such as encroachment permits, for oil and gas activities included in the Project, please see Global Response 5, "Use of EIR by Responsible Agencies," in the Final 2015 EIR, Section 7.2.1, Responses to

Comments – Comments – Global Response. The SSREIR has been revised to identify the Board as a responsible agency, as follows:

Chapter 2, Introduction, p. 2-23, at the end of the list of Local Agencies, add:

B. <u>Central Valley Flood Protection Board</u>

0001-6

This comment is noted. This comment does not state a specific concern related to the adequacy of the SSREIR and therefore does not require a detailed response.

2: California Department of Transportation

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From: Isla, Nicholas@DOT
To: Keith Alvidrez
Cc: Padilla, Dave@DOT
Subject: KER-5_DSSREIR Kern County Oil and Gas Permitting
Date: Thursday, March 27, 2025 2:02:28 PM

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or provide information unless you recognize the sender and know the content is safe.

Hello Keith,

We've reviewed the proposed Kern County Oil and Gas Permitting and have no comment. 0002-1

Thank you,

Nicholas Isla
Associate Transportation Planner
Local Development Review Branch
California Department of Transportation
1352 West Olive Avenue
(559) 981-7373



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Comment 2
Caltrans

0002-1

Thank you for your comment and participation in the public process.

This comment does not state a specific concern related to the adequacy of the SSREIR and therefore does not require a detailed response. This comment is noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration.

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7.2.3 Local Agencies

3: Kern County Public Works

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Office Memorandum

To: Lorelei Oviatt, Director
Planning and Natural Resources Department
Attn: Keith Alvidrez, Planner II

March 26, 2025

From: Cesar Ayon, Engineering Manager
Public Works Department/Development Review Division

Subject: 7-5.3 Revisions to Title 19, Kern County Zoning Ordinance 2025(A)
Location: The proposed boundary encompasses 3,700 square miles and generally includes the San Joaquin Valley Floor portion of Kern County up to an elevation of 2,000 feet. The boundary is defined by the San Luis Obispo County line on the west; the Kings and Tulare County lines on the north; the 2,000 foot elevation contours, squared off to the nearest section line on the east; and the northern boundary of the Los Padres National Forrest on the south.

Development Review Division

0003-1

This Division has reviewed the subject project and has no comment.

Thank you for the opportunity to comment on this project. If you have any questions or comments, please contact Rodd Parke of this Division at (661) 862-8848.

Floodplain Management Division

This Division has reviewed the subject project and has no comment.

Thank you for the opportunity to comment on this project. If you have any questions or comments, please contact Brian Blaise of this Division at (661) 862-5098.

Sewer and Water Division

This Division has reviewed the subject project and has no comment.

Thank you for the opportunity to comment on this project. If you have any questions or comments, please contact Kyle Perez of this Division at (661) 862-8852.

CSA Division

This Division has reviewed the subject project and has no comment.

Thank you for the opportunity to comment on this project. If you have any questions or comments, please contact Miguel Munoz of this Division at (661) 862-8908.

Cont'd.
0003-1

Comment 3
Kern County Public Works

0003-1

Thank you for your comment and participation in the public process.

This comment does not state a specific concern related to the adequacy of the SSREIR and therefore does not require a detailed response. This comment is noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration.

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4: Kern County Public Works Survey

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April 4, 2025

To: Lorelei Oviatt, Director
Planning and Natural Resources Department
Keith Alvidrez, Planner II

From: Jeremy M. Brock, County Surveyor
By: Andres Arias, Engineering Support Supervisor Phone: 28959

Subject: Draft Second Supplemental Recirculated Environmental Report for Revisions to Title 19 – Kern County Zoning Ordinance Code (2025 A), Focused on oil and Gas Local Permitting (PP13284).

I have reviewed the above noted project Notice of Preparation of EIR and recommend the following conditions be placed on the Conditional Use Permits: 0004-1

1. Prior to issuance of a building or grading permit: All survey monuments shall be tied out by a Licensed Land Surveyor. A corner record for each monument or record of survey shall be submitted to the County Surveyor for review and processing, per Section 8771 of the Professional Land Surveyor's (PLS) Act.

2. Prior to Final Inspection: All survey monuments that were destroyed during construction shall be re-set or have a suitable witness corner set. A post construction corner record for each monument re-set or a record of survey shall be submitted to the County Surveyor for processing, per Section 8771 of the Professional Land Surveyor's Act.

3. Upon completion of project: All survey monuments shall be accessible by a Licensed Land Surveyor or their representatives, with prior notice, per Section 8774 of the PLS Act and Civil Code 846.5 (a).

Thank you for the opportunity to review and comment on this project. Should you have any questions please contact me.

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Comment 4
Kern County Public Works Survey

0004-1

The comment requests that any Conditional Use Permit (CUP) for an oil and gas activity have specific conditions regarding survey monuments and their replacement, if damaged. The proposed revisions to the Kern County Zoning Ordinance (Ordinance) note that any Conditional Use Permit processed for oil and gas activities will be subject to the adopted process in Sections 19.102.130 through 19.102.180 for compliance with CEQA and noticed hearings before the Planning Commission and, if appealed, the Board of Supervisors. That is a separate process from the consideration and adoption of the proposed changes to implement oil and gas local permitting. The established CUP procedure will provide for public review, comment, and, if appropriate, imposition of conditions of approval for the requirements in dealing with survey monuments. The comment is noted for the record.

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7.2.4 Interested Parties

5: Earthjustice et al.

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April 28, 2025

Via Email

Kern County Planning and Natural Resources Department
Attn: Keith Alvidrez, Planner II
2700 "M" Street, Suite 100
Bakersfield, CA 93301
OG-SSREIRComments@kerncounty.com
AlvidrezK@kerncounty.com
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Re: Comments on the Draft Second Supplemental Recirculated Environmental Impact Report for Revisions to Title 19-Kern County Zoning Ordinance (2025-A) Focused on Oil and Gas Local Permitting (SCH # 2013081079)

Dear Mr. Alvidrez:

On behalf of Center for Biological Diversity, Center on Race, Poverty & the Environment, Comité Progreso de Lamont, Committee for a Better Arvin, Committee for a Better Shafter, Earthjustice, Natural Resources Defense Council, and Sierra Club, we are writing to submit the following comments regarding the Draft Second Supplemental Recirculated Environmental Impact Report (Draft SSREIR) for "Revisions to Title 19-Kern County Zoning Ordinance – 2025(A), Focused on Oil and Gas Local Permitting" (Ordinance or Project). These comments are offered to ensure that Kern County's (County) evaluation and consideration of the Ordinance complies with the California Environmental Quality Act (CEQA),[1] the CEQA Guidelines,[2] and direction from the courts, which have repeatedly found the County's CEQA analysis for the Project to be unlawfully deficient.

As an initial matter, we urge the County to take immediate steps to better inform and engage the public regarding the Ordinance. In particular, we believe the County should provide frontline community members, including many Spanish speakers, with improved access to the public process. Given the magnitude of the industrial activities authorized by the Ordinance and the threat that these activities pose to community members' health, the County's overburdened and most vulnerable residents deserve a reasonable opportunity to provide meaningful input on a decision that will disproportionately affect them for potentially decades to come. 0005-1

Further, we urge the County to seriously reconsider the approach that the Ordinance takes to permitting oil and gas wells in the County and reject the Project in favor of the "No Action" alternative. The Ordinance undermines deliberate and informed government decision making and public transparency by proposing to greenlight tens of thousands of new oil and gas wells and associated infrastructure—to be developed across an area the size of Delaware— based solely on a single, high-level environmental review. The Draft SSREIR does not endeavor to analyze or mitigate the site-specific impacts of oil and gas development, and yet the County would deprive 0005-2

[1] Pub. Resources Code, § 21000 *et seq*.
[2] Cal. Code Regs., tit. 14, § 15000 *et seq*. (hereinafter "CEQA Guidelines").

community members of any future notice or opportunity to comment when it issues site-specific permits. Rather than attempting to distort CEQA to stymie future environmental review, and instead of fast-tracking more harmful oil and gas development, we believe that the County should adopt measures to improve health and safety protections for local communities already threatened by oil and gas operations and pave the way for a community and worker-led transition to a more secure and sustainable economic base for the County. 0005-2 Cont'd.

To the extent the County is intent on moving forward with the Project—despite the acknowledged significant and unavoidable impacts to public health and the environment—it is crucial that the County's environmental review meaningfully addresses community concerns by thoroughly evaluating the impacts of increased oil and gas development and mitigating these impacts to the fullest extent feasible, as CEQA requires. The County's previous environmental reviews have defied CEQA's core purposes of transparency, informed decision making, and environmental protection and failed to comply with the Act. The surest way for the County to avoid further legal challenges and defeats is to follow CEQA's requirements and to take community input seriously, as described herein. 0005-3

Beyond these comments, we reserve the right to identify new issues, provide more information, and propose additional mitigation measures during the ongoing administrative process for the Project and Draft SSREIR.

I. The County should make its CEQA process accessible to the County's many Spanish-language speakers.

We continue to urge the County to take sensible steps to make the public process for the Ordinance accessible to frontline community members, many of whom communicate most comfortably in Spanish. All Kern County residents, including its Spanish-speaking populations, low-income communities, and other vulnerable residents, deserve a reasonable opportunity to provide meaningful input on a decision that will disproportionately affect them. "Public participation is an essential part of the CEQA process," and a lead agency should include procedures for "wide public involvement, formal and informal."[3] Further, CEQA requires that an EIR must be written and presented in a way that is understandable to members of the public.[4] 0005-4

We acknowledge that, in previous litigation, the Court of Appeal ruled that CEQA does not strictly require the County to translate the materials it develops for the Project's CEQA review. However, this remains an issue of importance to local residents, many of whom are linguistically isolated. Providing improved access to Spanish speakers would be a sign of respect that could contribute to bridging the gap between the communities and the County. Noting that "CEQA and the Guidelines … grant[] public agencies the discretionary authority to provide

[3] CEQA Guidelines § 15201. *See also* CEQA Guidelines § 15002(a)(1) (The basic purposes of CEQA are to "[i]nform governmental decision makers *and the public* about the potential, significant environmental effects of proposed activities" (emphasis added)).

[4] *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1987) 193 Cal.App.3d 1544, 1549.

interpreters and translations of CEQA documents," the Court of Appeal remarked that offering "translations would be commendable."[5]

0005-4 Cont'd.

In the interest of facilitating full public participation, we again request that the County offer Spanish translation and interpretation to the fullest extent feasible. Roughly one in six Kern County residents speaks Spanish with limited or no English proficiency.[6] Indeed, as the County has itself previously acknowledged with respect to this Project, "Kern County has a higher percentage of Hispanic, linguistically isolated, and pollution burdened populations than do other areas of California."[7]

As we have noted previously, the County possesses the resources, technology, and know-how to serve its Spanish-speaking residents more effectively and equitably. For example, last year, notices for joint public workshops convened by the County and the U.S. Environmental Protection Agency (EPA) for the proposed Carbon TerraVault I project were issued in English and Spanish, along with separate instructions in both languages on how to participate virtually.[8] Additionally, Spanish interpretation was provided during the workshops, and the agencies' respective PowerPoint presentations were posted in both English and Spanish.[9] Community members appreciated that it was easier to access information and participate.

To date, the latest iteration of the County's CEQA process for the Project has again been disappointing. Although the County offered real-time Spanish interpretation during its recent workshop and provided instructions for joining the workshop in Spanish, the County's notices and CEQA materials have all been issued in English only, and the PowerPoint slides presented during the workshop likewise were offered exclusively in English.

0005-5

It is not too late for the County to correct its course. Going forward, the County can and should take the steps listed below to allow frontline community members and Spanish-speaking residents to participate meaningfully. Specifically, the County should:

- Post versions of all notices issued to date in Spanish and translate all future notices related to the Project into Spanish, including the County's notice of availability, notices of public workshops, meetings, or hearings, and notice of determination (if applicable);
- Translate into Spanish and post the slides presented at the County's recent public workshop, held on April 15, 2025;
- Translate into Spanish and post, at a minimum, the executive summary of the Draft SSREIR and the text of all mitigation measures set forth in the revised chapters of the Draft SSREIR that address air quality and water supply issues;

[5] *King & Gardiner Farms, LLC v. County of Kern*, No. F077656, Slip Opinion (*King & Gardiner* Slip Op.) at 125 (Cal. Ct. App. Feb. 25, 2020).
[6] United States Census Bureau, *Quick Facts Kern County, CA* (July 1, 2019); United States Census Bureau, *Selected Social Characteristics in the United States* (AR174331, 174338-43).
[7] SREIR, Response to Comment 0010-3 (AR208761).
[8] *See* https://kernplanning.com/environmental-doc/ctv1/.
[9] *Ibid.*

- Meet directly with community members to answer questions, discuss concerns, and receive input on the Ordinance in a less formal and more constructive setting than what is possible in an official workshop or hearings;

- Ensure that the forthcoming hearings before the Planning Commission and Board of Supervisors are easily accessible to Spanish-speaking and low-income community members by: (a) inviting residents to ask questions or offer comments in Spanish; (b) providing two-way, simultaneous Spanish and English interpretation services for any oral presentations and all verbal comments; (c) allowing residents to join the hearings by phone, computer, or in person; and (d) providing a Spanish-language version of any slides or written handouts.

0005-5 Cont'd.

II. The Draft SSREIR and Ordinance fail to adequately address SB 1137.

The Draft SSREIR rightfully acknowledges that SB 1137 has been adopted into state law and severely limits the extent to which oil and gas drilling near sensitive receptors may lawfully occur in Kern County. As explained in the Draft SSREIR, SB 1137 added Public Resources Code sections 3280 through 3291 which, with certain limited exceptions, "prohibit[s] the California Geologic Energy Management Division (CalGEM) from approving a Notice of Intent (NOI) to drill oil and gas wells within a 'health protection zone' (HPZ) of 3,200 feet or fewer from specified sensitive receptors."[10]

0005-6

SB 1137 defines the term "sensitive receptor" broadly to mean residences, other forms of live-in housing including prisons and dormitories, education resources, community resources, healthcare facilities, and businesses open to the public.[11] Because this definition is different and broader than the definition of "sensitive receptor" previously adopted by the County for the Project, the County has properly proposed that the Ordinance define "sensitive receptor" to incorporate the state law definition.[12]

Although the Draft SSREIR recognizes the state's institution of a 3,200-foot setback and proposes to change the Ordinance's definition of sensitive receptor to conform to state law, inexplicably, the County proposes to wholly abandon County oversight of oil and gas activity with the 3,200-foot setback distance—despite acknowledging that state law still allows drilling under certain circumstances as well as the continuation of existing operations at thousands of wells that have already been drilled there. The County's proposed approach, which creates the possibility that the most dangerous wells located near communities may not be mitigated to the same extent as other wells covered by the Ordinance, does not comply with CEQA.

0005-7

A. The County should consider and adopt an alternative that implements at least a 3,200-foot setback from sensitive receptors for new oil and gas drilling.

Previously, the County considered and rejected a 2,500-foot setback alternative to the Project owing to purported "takings" concerns that—as commenters explained at length in previous comments—reflected a thorough misunderstanding of takings law and relevant facts

0005-8

[10] Draft SSREIR at 4.3-56 (citing Pub. Resources Code, §§ 3280-3291); accord *id.* at 3-42, 4.3-153.
[11] *See* Pub. Resources Code, § 3280(c); *accord* Draft SSREIR at 3-32 to 3-33, 4.3-155.
[12] Draft SSREIR at 3-32, 4.3-155.

and otherwise was irrational.[13] This time around, the Draft SSREIR declines to analyze the 2,500-foot setback based on SB 1137, stating that "since California law currently prescribes a 3,200-foot setback from sensitive receptors on oil and gas wells, [the 2,500-foot] alternative is eliminated from further consideration."[14]

0005-8 Cont'd.

While it certainly makes sense for the County to decline to continue consideration of a 2,500-foot setback alternative that, on its face, would conflict with the stricter requirements of state law, the Draft SSRIER does not evaluate any other setback alternatives equal or greater to the setback established by SB 1137. Nor does the Draft SSREIR explain why an equal or greater setback has not been considered. The Draft SSREIR should be revised to consider an alternative adopting a setback of at least 3,200 feet. Given that state law reflects such a setback, it is plainly feasible.

Given that state law now institutes a 3,200-foot setback, one obvious alternative to the Project would be for the County to adopt a corresponding 3,200-foot setback of its own. As described in the Draft SSREIR, the record amply supports adopting a 3,200-foot setback:

> Legislative findings in SB 1137, Section 1, state that "Proximity to oil and gas extraction sites pose significant health risks, especially due to increased air pollution" and "Studies have shown evidence of harm at distances less than one kilometer, which is approximately 3,200 feet." The Senate Rules Committee, SB 1137 Senate Floor Analysis (August 27, 2022), cited an October 1, 2021, report of the California Oil and Gas Public Health Rulemaking Scientific Advisory Panel on evidence of health risks from exposure to oil and gas well emissions within 1 kilometer. A subsequent report by the Advisory Panel titled Public Health Dimensions of Upstream Oil and Gas Development in California (June 2024) assessed additional epidemiological studies and found a consistent increase in exposure to air pollution and heightened risk of adverse health outcomes in populations living in proximity to oil and gas well sites. Although the impact of stressors generally attenuates as the distance from the source increases, the body of evidence consistently indicates that residents closer to upstream oil and gas development, and in the vicinity of higher-density oil and gas development, experience increased respiratory and perinatal health risks. In particular, six peer-reviewed epidemiological studies in California observed associations between upstream oil and gas development and diagnosed asthma, reduced lung function, and reduced fetal growth at distances of up to 1 km (3,281 feet). The report also found that compared to the overall California population, Hispanic, non-Hispanic Black, non-Hispanic Asian communities, and populations of lower socioeconomic status are more likely to live within 1 km (3,281 feet) of at least one active well.[15]

[13] See Comments of Center for Biological Diversity et al. on the Draft Supplemental Recirculated Environmental Impact Report for Revisions to Title 19-Kern County Zoning Ordinance (2020-A) Focused on Oil and Gas Local Permitting (Sept. 16, 2020) at 33-57 (AR208532-56).
[14] Draft SSREIR at 1-33.
[15] Draft SSREIR at 4.3-153 to 4.3-154 (internal citations omitted).

For these reasons, the County should consider and adopt its own setback of 3,200 feet to align with state law and the substantial body of science that supports SB 1137's establishment of the Health Protection Zone. 0005-8 Cont'd.

B. The County should amend the Ordinance to ensure that all new oil and gas development activity on unincorporated land is subject to the County's mitigation and monitoring requirements.

While SB 1137 generally prohibits new drilling within the 3,200-foot setback (i.e., the Health Protection Zone or HPZ), there are exceptions. As the Draft SSREIR explains: 0005-9

> Notwithstanding the prohibition on approval of new well drilling within the HPZ, SB 1137 authorizes CalGEM to approve NOIs for any of the following purposes:
>
> 1) To prevent or respond to a threat to public health, safety, or the environment.
>
> 2) To comply with a court order finding that denying approval would amount to a taking of property, or a court order otherwise requiring approval of a notice of intention.
>
> 3) To plug and abandon or reabandon a well, including an intercept well necessary to plug and abandon or reabandon a well.[16]

Moreover, SB 1137 does not immediately eliminate existing oil and gas operations within the 3,200-foot Health Protection Zone. As the Draft SSREIR explains, existing oil and gas operations in the HPZ may continue pursuant to SB 1137, albeit subject to heightened state regulatory requirements "related to noise, lighting, dust control, chemical analyses of produced water, leak detection and response plans, and water well or surface water testing."[17]

Owing to the narrowness of SB 1137's exceptions, future oil and gas drilling within the 3,200-foot setback presumably will be uncommon. Nonetheless, some drilling on unincorporated Kern County land within the 3,200-foot setback is foreseeable. And existing operations at the estimated 6,029 active wells and 3,724 idle wells within the setback distance will be allowed to continue.[18]

Rather than ensure that any future drilling within the 3,200-foot setback—if authorized by CalGEM in the first instance pursuant to state law—is held to the mitigation and monitoring requirements set forth in the SSREIR, the County proposes to wholly exclude from its Ordinance the areas that qualify as SB 1137 Health Protection Zones pursuant to state law.[19] According to the County, "CalGEM … will be responsible for CEQA compliance for such approvals"[20] and

[16] Draft SSREIR at 3-42 (citing Pub. Resources Code, § 3281 (a)); *accord* Draft SSREIR at 4.3-154.
[17] Draft SSREIR at 4.3-56.
[18] Draft SSREIR at 4.3-153 ("An analysis … created by the State of California in a geographic information system format" estimates that 6,029 active wells and 3,724 idle wells in the Project Area are "affected by the HPZ limitations").
[19] Draft SSREIR at 3-32, 3-42.
[20] Draft SSREIR at 3-42.

"[o]nly permits from CalGEM would be required for all oil and gas activities in an HPZ allowed by State law."[21]

0005-9 Cont'd.

Nowhere in the Draft SSREIR does the County explain why it has written the Ordinance to wholly exclude any oversight of oil and gas activities within the 3,200-foot setback. Indeed, the County's proposal to forgo oversight is inconsistent with the Project's first stated objective, which is to update "standards and protective mitigation measures for the purpose of reducing or eliminating potential significant adverse environmental impacts, to the extent feasible, … to protect the health, safety, and general welfare of communities, residents, and visitors."[22] The Draft SSREIR therefore fails as an informational document and must be amended to explain the County's proposed approach.

However, even more concerning than the lack of explanation is the prospect that new wells drilled within the setback might be subject to different and potentially lesser requirements than those applicable elsewhere throughout unincorporated Kern County. While CalGEM will serve as the CEQA lead agency for purposes of allowing drilling pursuant to any of SB 1137's exceptions, and CalGEM presumably will fully abide by CEQA's requirements, if the County genuinely wants to protect public health and the environment, it should amend the Ordinance to apply to—and require implementation of the County's mitigation and monitoring measures for—any new oil and gas wells authorized by CalGEM in the Health Protection Zone.

To the extent the County may be concerned about potential conflicts with state law and regulations and/or CEQA mitigation and monitoring requirements ordered by CalGEM, the Ordinance could specify that any new wells authorized for drilling within the Health Protection Zone must implement all mitigation and monitoring requirements set forth in the SSREIR—but only to the extent they have not otherwise been adopted or superseded with stricter mitigation requirements imposed by CalGEM.

Similarly, for existing wells within the Health Protection Zone, the County should continue to apply the SSREIR's mitigation and monitoring requirements applicable to such operations elsewhere in unincorporated Kern County, with the caveat that the requirements will only apply to the extent they have not been superseded by stricter regulations or requirements imposed by CalGEM.

C. The SSREIR should plainly state that, in the event SB 1137 no longer applies, the County will not permit drilling within the 3,200-foot setback unless and until further CEQA review is completed.

The Draft SSREIR states that, "[i]n the event that future changes in State law allow drilling within the HPZ, supplemental CEQA review … may be required."[23]

0005-10

The County should correct this statement, which is wrong. If state law changes to allow drilling within the 3,200-foot setback and the County seeks to allow drilling within that distance, it is unquestionable that further CEQA review will be required. This is necessarily so because,

[21] Draft SSREIR at 3-39; *see also id*. at 4.3-154.
[22] Draft SSREIR at 1-14.
[23] Draft SSREIR at 4.3-154 to 4.3-155.

among other reasons: (1) the County still has not complied with the Court of Appeal's directive to reevaluate the risks of drilling at distances ranging from 210 to approximately 1,000 feet;[24] (2) the County is declining to continue its consideration of a 2,500-foot setback on the ground that it has been superseded by SB 1137;[25] and (3) the County would have to amend the Ordinance to allow drilling within 3,200 feet, which would constitute a significant change to the Project. Consequently, the County should revise the SSREIR to apprise the public and decisionmakers that, in the event state law changes and the County proposes to allow drilling within the current Health Protection Zone, supplemental CEQA review will be required. 0005-10 Cont'd.

D. The Draft SSREIR fails to analyze whether and how SB 1137 might affect the Project's significant impacts.

The Draft SSREIR asserts that, accounting for SB 1137 and its institution of a 3,200-foot setback from sensitive receptors, all the environmental impacts of the Project previously identified by the County "remain significant and unavoidable" but "the overall degree of adverse impact is less (except for Greenhouse Gases) due to the implementation of SB 1137 setback provisions in the HPZs."[26] 0005-11

The County does not support or explain its conclusory assertion, neither generally nor with respect to greenhouse gases specifically. The SSREIR must be amended to explain the County's analysis and conclusion.

Further, it is unclear if the County has assessed whether SB 1137's establishment of HPZs could result in the intensification of drilling in certain other areas within the Project Area, with heightened impacts. The SSREIR should be amended to address this possibility along with additional or different mitigation measures, if needed.

III. The Draft SSREIR's analysis and mitigation of air quality impacts is inadequate.

It is vitally important that the County accurately analyzes and fully mitigates air quality impacts because air quality directly bears on the health and welfare of Kern County residents. Unfortunately, the San Joaquin Valley, including Kern County, is not achieving several federal and state ambient air quality standards for dangerous fine particulate matter ($PM_{2.5}$) and ozone pollution.[27] In fact, not only is the San Joaquin Valley failing to attain the health-based air 0005-12

[24] *See* Draft SSREIR at 2-4, 4.3-159 to 4.3-160; *accord V Lions Farming, LLC v. County of Kern* (2024) 100 Cal. App. 5th 412, 419–20 ("We conclude that discussion [of cancer risks] is inadequate for purposes of CEQA because it lacks sufficient information for the public and decision makers to meaningfully understand the cancer risk resulting from multiple wells drilled outside the 210-foot setback distance specified in the ordinance. The health risk assessment for the drilling of multiple wells used a setback distance of just under 1,000 feet instead of analyzing reasonably foreseeable situations that could arise under the ordinance's actual setback distances. This informational defect must be corrected before the ordinance is reapproved."); *V Lions Farming, LLC v. County of Kern*, Nos. F084763, F085102, F085220, Slip Opinion (*V Lions Farming* Slip Op.) at 46-66 (Cal. Ct. App. Mar. 7, 2024).

[25] Draft SSREIR at 1-33.

[26] Draft SREIR at 1-25.

[27] Draft SSREIR at 4.3-5 (Table 4.3-1).

quality standards for these pollutants, the Valley's air quality is the worst in the country for both short- and long-term $PM_{2.5}$ pollution and third-worst in the country for ozone.[28]

0005-12 Cont'd.

Nonetheless, the Ordinance intends to authorize new oil and gas drilling that will emit hundreds of thousands of tons of harmful air pollution over the coming two decades.[29]

Unfortunately, the Draft SSREIR fails to fully disclose and effectively mitigate the Project's air quality impacts, particularly impacts from deadly $PM_{2.5}$.

A. The SSREIR should be updated to address the revised national ambient air quality standard for $PM_{2.5}$.

The Air Quality section of the Draft SSREIR must be updated to reflect the EPA's issuance of a new national ambient air quality standard (NAAQS) for fine particulate matter, also known as $PM_{2.5}$. On February 7, 2024, EPA strengthened the annual health-based NAAQS for $PM_{2.5}$ from a level of 12 micrograms per cubic meter to 9 micrograms per cubic meter.[30]

0005-13

Table 4.3-1 of the Draft SSREIR identifies the new standard of 9 micrograms per cubic meter, but no context is provided—not even the name, regulatory citation, or date of the new standard is identified (nor the fact that it is new).[31]

Beyond just acknowledging the new standard, the SSREIR should also address the implications of the new annual $PM_{2.5}$ NAAQS: air quality in Kern County currently does not meet the new standard[32] and is not expected to meet it in 2032,[33] meaning the San Joaquin Valley Air Pollution Control District (Air District) will have to institute further restrictions on polluting projects and activities throughout the San Joaquin Valley airshed, including in Kern County.[34]

0005-14

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[28] American Lung Association, *State of the Air 2025 Report* at 15, 18, 20, available at https://www.lung.org/getmedia/5d8035e5-4e86-4205-b408-865550860783/State-of-the-Air-2025.pdf.

[29] Draft SSREIR at 4.3-125 to 4.3-127 (Tables 4.3-27 and 4.3-28).

[30] *See generally* EPA, *Reconsideration of the National Ambient Air Quality Standards for Particulate Matter*, 89 Fed. Reg. 16202 (Mar. 6, 2024); accord, EPA, *EPA Finalizes Stronger Standards for Harmful Soot Pollution, Significantly Increasing Health and Clean Air Protections for Families, Workers, and Communities* (Feb. 7, 2024), https://www.epa.gov/newsreleases/epa-finalizes-stronger-standards-harmful-soot-pollution-significantly-increasing.

[31] *See* Draft SSREIR at 4.3-5 to 4.3-6.

[32] *See* EPA, *EPA Finalizes Stronger Standards for Harmful Soot Pollution, Significantly Increasing Health and Clean Air Protections for Families, Workers, and Communities* at Figure 1; *accord* EPA, *Fine Particle Concentrations for Counties with Monitors Based on Air Quality Data from 2020 – 2022* at 1, https://www.epa.gov/system/files/documents/2024-02/table_annual-pm25-county-design-values-2020-2022-for-web.pdf.

[33] EPA, *EPA Projects More than 99% of Counties Would Meet the Revised Fine Particle Pollution Standard* (Feb. 7, 2024), https://www.epa.gov/system/files/documents/2024-02/2024-pm-naaqs-final-2032-projections-map.pdf.

[34] Lazo, *California's Pursuit of Clean Air Just Got Much Harder: New Soot Standards Set*, Cal Matters (Feb. 7, 2024) ("Achieving the new target will take wide-ranging new state and local regulations aimed at cutting emissions"), https://calmatters.org/environment/2024/02/california-new-soot-standards.

Relatedly, the SSREIR should be revised to provide updated information on the status of ambient air quality and air quality planning in the San Joaquin Valley. The Draft SSREIR does not fulfill its purpose as an informational document because it presents old air quality data from 2016 to 2018,[35] along with an out-of-date description of efforts by the Air District to comply with the $PM_{2.5}$ and ozone NAAQS that fails to describe local air quality planning efforts past 2018.[36] 0005-15

B. The SSREIR should be updated to make clear the full danger posed by increased $PM_{2.5}$ emissions.

Along with EPA's issuance of its revised $PM_{2.5}$ NAAQS, the agency also summarized the latest scientific studies on the health effects of $PM_{2.5}$. 0005-16

The SSREIR's discussion of the health effects of $PM_{2.5}$ should be updated to reflect the latest science summarized by EPA in its standard-setting decision. Such an update is necessary because CEQA requires that an EIR conduct "an analysis that connect[s] the air quality effects to human health consequences."[37]

Of key importance to disclose to Kern County residents and decisionmakers: currently available evidence indicates there is no safe level of exposure to $PM_{2.5}$.[38] Consequently, it is essential that the County adopt all feasible mitigation for increased $PM_{2.5}$ emissions.

C. The SSREIR should address known deficiencies in Mitigation Measure 4.3-8 and the OG-ERA.

After previously invalidating the County's primary mitigation measure to address air quality impacts—Mitigation Measure (MM) 4.3-8—as well as the County's related Oil and Gas Emission Reduction Agreement (OG-ERA),[39] the Court of Appeal recently accepted the County's amended versions of both as legally sufficient.[40] While the Court did not mandate further changes to amended MM 4.3-8 or the Amended OG-ERA, the County can and should make changes to better protect County residents from the Project's significant air quality impacts, particularly the impact of deadly $PM_{2.5}$ pollution. Necessary changes include the following: 0005-17

First, MM 4.3-8 and/or the OG-ERA should be amended to require that the Project's increased emissions of $PM_{2.5}$ must be offset with reductions in $PM_{2.5}$ emissions from other sources. Currently, MM 4.3-8 and the OG-ERA allow the County and Air District to "offset"

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[35] Draft SSREIR at 4.3-9 to 4.3-10 (Table 4.3-3).
[36] Draft SSREIR at 4.3-73.
[37] *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 522.
[38] According to EPA: "[t]he currently available evidence does not identify particular $PM_{2.5}$ concentrations that do not elicit health effects. Rather, health effects can occur over the entire distribution of ambient $PM_{2.5}$ concentrations evaluated, and epidemiologic studies conducted to date do not identify a population-level threshold below which it can be concluded with confidence that $PM_{2.5}$-related effects do not occur." 89 Fed. Reg. at 16249.
[39] *King & Gardiner* Slip Op. at 3-4, 67-74; *accord V Lions Farming* Slip Op. at 36-37.
[40] *V Lions Farming* Slip Op. at 40-46.

increased emissions of $PM_{2.5}$ by funding pollution reduction projects that reduce emissions of other air pollutants, including coarse particulate matter (PM_{10}) and nitrogen oxides (NOx).[41] This approach is ineffective and threatens residents' health. As the Draft SSREIR acknowledges, $PM_{2.5}$ is more harmful and deadlier than PM_{10},[42] so it is crucial that increased $PM_{2.5}$ emissions be offset with equivalent reductions in $PM_{2.5}$ and not PM_{10} instead. As for NOx, it is a "precursor" pollutant that contributes to ambient levels of $PM_{2.5}$ in the San Joaquin Valley (owing to atmospheric chemical reactions that result in the formation of particulates),[43] but reducing NOx emissions is not as effective as reducing $PM_{2.5}$ emissions directly. Indeed, the Air District recently acknowledged that 6 tons of NOx emissions must be reduced in order to achieve the same air quality benefit as reducing just one ton of $PM_{2.5}$.[44] MM 4.3-8 and the OG-ERA's current approach of treating $PM_{2.5}$ and NOx interchangeably therefore not only poses health risks but it also allows the Air District to spend the County's valuable air quality mitigation fees on NOx-reduction projects that are not maximally effective at improving ambient $PM_{2.5}$ levels. 0005-17 Cont'd.

Second, MM 4.3-8 and/or the OG-ERA should be amended to require that air quality mitigation funds are spent timely to ensure that mitigation does not lag behind the onset of the Project's pollution-generating activities. As the Draft SSREIR admits based on the County's experience under the original, 2015 version of the Project, "not all mitigation fee monies are spent the same year they are received," resulting in "a lag between the time when emitting activities begin and emission reduction projects are implemented."[45] Since this lag poses a threat to public health, the County should modify MM 4.3-8, and/or the OG-ERA to mandate that new emissions from drilling and other permitted activities may not outpace the Air District's efforts to identify, fund, and implement contemporaneous pollution-reducing projects. Under such an approach, the County would continue to collect fees from operators but would instruct them not to commence permitted activities unless or until the Air District is ready to proceed with a commensurate pollution-reducing project. If an operator is concerned about any potential wait time associated with the fee system, they also have the option of developing and instituting their own pollution-reducing projects under Mitigation Measure 4.3-8.[46] 0005-18

Third, MM 4.3-8 and/or the OG-ERA should be amended to require better reporting on how mitigation fee monies are spent and the degree to which mitigation has been achieved. As commenters have noted previously, the County's annual reports for the Project only report on the amount of fee monies collected; they do not offer any details about the quantities of air pollution reduced.[47] The Air District's annual reports do not provide any accountability either, as they: do 0005-19

[41] *See, e.g.*, Amended OG-ERA at section 1.1 and Exhibit C (Per Well Emission Schedule).
[42] Draft SSREIR at 4.3-15 to 4.3-16.
[43] Draft SSREIR at 4.3-13 to 4.3-14.
[44] EPA, *Clean Air Plans; Contingency Measures for the Fine Particulate Matter Standards; San Joaquin Valley, California*, 88 Fed. Reg. 87988, 88000 (Dec. 20, 2023) ("CARB and the District note that direct $PM_{2.5}$ emission reductions are a more efficient and cost-effective way to reduce ambient $PM_{2.5}$ in the San Joaquin Valley than NO_x emission reductions. … CARB and the District examined several methods for calculating the ratio based on varying combinations of monitoring sites. They concluded that 6:1 was a conservative ratio ….").
[45] Draft SSREIR at 4.3-140.
[46] Draft SSREIR at 4.3-170.
[47] *See*, *e.g.*, Kern County Planning and Natural Resources Department, *2019 Annual Progress Report* at 7, 9-10.

not cover the same time period as the County's reports, making comparison difficult; do not report on progress made under the OG-ERA specifically, which the Air District lumps in with all of its other emissions reductions agreements; do not specify whether the emissions reductions are occurring within Kern County or otherwise benefit the County and its residents; and nowhere indicate how the quantities of air pollution reduced compares with the quantities of new emissions authorized—which purportedly will be mitigated to net zero.[48] The County therefore should modify MM 4.3-8, and/or the OG-ERA to mandate quarterly reporting by the County and Air District that quantifies: the number of new permits and associated emissions, both over the duration of the reporting period and cumulatively since the 2015 Ordinance was first enacted; the quantities of pollution reduced under the OG-ERA, both during the reporting period and cumulatively since the 2015 Ordinance was enacted; and the location of all pollution reduction projects funded with fee monies paid pursuant to MM 4.3-8. These quarterly reports should be translated into Spanish and made permanently available online.

0005-19 Cont'd.

Fourth, the County should amend the OG-ERA to insist that fee monies collected pursuant to MM 4.3-8 are spent on pollution-reducing projects in Kern County, instead of allowing the Air District to spend the money elsewhere. The Amended OG-ERA states that the County will actively seek pollution-reducing projects within the county, and further provides that the Air District shall prioritize funding for local projects.[49] A review of the Air District's annual reports, however, seems to indicate that the Air District has directed the vast majority of its emission reduction funds—for which the OG-ERA is by far the largest source—to pollution-reducing projects outside of Kern County.

0005-20

Fifth, the County can and should prioritize OG-ERA spending on pollution-reducing projects that directly benefit those community members who experience disproportionate pollution and socioeconomic burdens. MM 4.3-8 identifies a list of pollution-reducing projects that may be supported by OG-ERA funding, including "[f]unding lower-emission equipment and processes for local businesses, schools, non-profit and religious institutions, hospitals, city and county facilities."[50] Rather than funding such community interests, it appears the overwhelming majority of OG-ERA funds have been directed to projects that exclusively or primarily provide benefits for the agriculture and oil industries. For example, in FY 2017-18 and FY 2018-19, most OG-ERA funds were spent on replacing agricultural tractors, heavy-duty trucks, and wheel loaders with cleaner versions.[51] In comparison, during the same period, the District spent fee monies on just one community-focused project—replacing eighteen old public school buses.[52] This failure to fund community benefit projects is inconsistent with MM 4.3-8 and deprives those community members most affected by the Project of the benefits of the measure. To ensure an improved focus on community-focused emission reduction projects, the County should amend

0005-21

[48] *See, e.g.,* San Joaquin Valley Air Pollution Control District (SJVAPCD), *2019 Annual Report - Indirect Source Review Program* at 6-11.
[49] Amended OG-ERA, section 1.3(c).
[50] Draft SSREIR at 4.3-171.
[51] *See* SJVAPCD, *2017 Annual Report - Indirect Source Review Program* at 5, 7, Appendix A; SJVAPCD 2018 *Annual Report - Indirect Source Review Program* at 9-10, Appendix A.
[52] SJVAPCD *2017 Annual Report* at 7, Appendix A; *SJVAPCD 2018 Annual Report* at Appendix A.

the OG-ERA to designate such projects as an OG-ERA spending priority and create a body or mechanism for local community input on the Air District's expenditure of OG-ERA fee monies. 0005-21 Cont'd.

D. The Draft SSREIR fails to analyze or mitigate the increased risk and occurrence of Valley Fever in Kern County.

Cases of Valley Fever have been on the rise in recent years. Since the original EIR was prepared in 2015, the number of annual cases in the County has nearly doubled, with fatalities from the disease and the incidence of mortality sharply increasing as well.[53] According to Kern County Public Health officials, cases of Valley Fever and deaths from the disease reached the highest in recorded history in 2024, with 3,990 cases identified last year, including 49 deaths.[54] Local news reported that the data reveal "a shocking rise compared to 2023, which saw just 3,152 cases and 23 deaths."[55] 0005-22

Given this new information on a significant increase in cases and deaths, the SSREIR should reassess and improve mitigation for this impact.

Based on the County's original, outdated EIR originally issued in 2015, the Draft SSREIR institutes just one mitigation measure to address Valley Fever, MM 4.3-6.[56] The measure does very little beyond requiring worker education and requiring that personal protective equipment (i.e., respirators) be made available to workers upon request.[57] MM 4.3-6 is inadequate and does not incorporate all feasible mitigation to address Valley Fever.

Rather than merely requiring operators to provide personal protective equipment on request, MM 4.3-6 should be revised to require that operators always provide workers who may be exposed to fugitive dust from soil disturbance with National Institute for Occupational Safety and Health (NIOSH)-approved respirators, instead of waiting for workers to request it.

MM 4.3-6 also should be revised to include the suite of protections that the County previously devised for the 99 Houghton Industrial Park Project (as set forth in MM 4.3-1 of the Recirculated Draft EIR for that project)[58] and the IPG Industrial Project (as set forth in MM 4.3- 0005-23

[53] Kern County Public Health Department, *Valley Fever, It's in the Air, Beware* (undated), https://www.kernpublichealth.com/healthy-community/illness-disease/valley-fever.
[54] Michael Patterson, *Valley Fever cases and deaths reach record-high in 2024, Kern Co. Public Health data shows*, Bakersfield Now (Apr. 3, 2025), https://bakersfieldnow.com/news/local/valley-fever-cases-reach-record-high-in-2024-kern-county-public-health-data-shows-public-health-california?photo=1.
[55] *Ibid*.
[56] Draft SSREIR at 4.3-165.
[57] Draft SSREIR at 4.3-165.
[58] Kern County Planning & Natural Resources Dept., *Recirculated Draft Environmental Impact Report for 99 Houghton Industrial Park Project* (Oct. 2019) at 1-27, 4.3-48 to 4.3-49, https://psbweb.kerncounty.com/UtilityPages/Planning/EIRS/99_Houghton/DEIR/_99_Houghton_RDEIR_Vol%201.pdf.

6 of the Draft EIR for that project).[59] Those protections—rewritten below to eliminate discretion and to ensure enforceability, as CEQA requires—are as follows: 0005-23 Cont'd.

- The Owner/operator shall ensure that all equipment, vehicles, and other items are thoroughly cleaned of dust before they are moved offsite to other work locations.
- Grading and trenching work shall be phased so that earthmoving equipment is working ahead or down-wind of workers on the ground.
- In the Fugitive Dust Control Plan required pursuant to MM 4.3-X, the Owner/operator shall describe how it will phase work to keep earthmoving equipment working ahead or down-wind of workers on the ground.
- The area immediately behind grading or trenching equipment shall be sprayed with water before ground workers move into the area.
- In the event that a water truck runs out of water before dust is sufficiently dampened, any ground workers that otherwise would be exposed to dust should be directed to leave the area until a full truck resumes water spraying.
- All heavy-duty earth-moving vehicles shall be closed-cab and equipped with a HEPA-filtered air system.
- The Owner/operator shall provide evidence of required training on how to spot and report the symptoms of Valley Fever and how to properly use personal protective equipment to the Kern County Planning and Natural Resources Department within 24 hours of the training session.

Although the County ultimately did not finalize the EIR or move forward with the 99 Houghton Industrial Park Project, the County's inclusion of the same measures in the recently issued (March 2025) Draft EIR for the IPG Industrial Project underscores that the foregoing measures are feasible and therefore must be adopted.

IV. The Draft SSREIR's analysis and mitigation of water supply impacts is inadequate.

A. The Draft SSREIR's analysis of water supply impacts is inadequate.

As noted by the Court of Appeal, the County's analysis of water supply impacts must reflect the nature and magnitude of potential harms, both at large in Kern County and at the community level, including disadvantaged communities (DACs).[60] To the extent this analysis is limited by the evidence available, the County must explain those limitations and provide analysis reflecting what is "reasonably possible."[61] While the Draft SSREIR acknowledges this mandate, 0005-24

[59] Kern County Planning & Natural Resources Dept., *Draft Environmental Impact Report for the IPG Industrial Project* (Mar. 2025) at 1-33 to 1-34, 4.3-67 to 4.3-68, https://psbweb.kerncounty.com/planning/pdfs/eirs/IPG/IPG_DEIR_Vol1_CH1-11.pdf.
[60] *V Lions Farming* Slip Op. at 81.
[61] *Id.* at 81-82 (quoting *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 843).

as well as the likelihood that "the consequences of physical effects on groundwater wells are likely to be greater within DACs,"[62] it fails to consider relevant data and comes to unsupported conclusions, particularly with respect to the baseline number of failure-susceptible wells in DACs within the Project Area and the likelihood of groundwater contamination from the partial or complete dewatering of wells.[63]

0005-24 Cont'd.

1. The Draft SSREIR inaccurately characterizes potential impacts and risks to DACs from well failure.

Although the Draft SSREIR correctly concludes that impacts to localized water supply and well failure susceptibility in DACs are "significant and unavoidable" impacts,[64] it wrongly discounts the effects that the Project is likely to have on local water supplies. Appendix C of the Draft SSREIR—where the Draft SSREIR includes most of its information and evaluation of water well failure susceptibility in DACs—seemingly implies that well conditions in DACs within the Central Valley portion of Kern County are better than they are, claiming that "the number of failure-susceptible wells per 1-square-mile area at DACs is relatively low in comparison to other areas on a statewide basis," and that "potential well failure because of groundwater level decline is not a pervasive occurrence at project area DACs."[65]

0005-25

These assertions are misleading. Appendix C's discussion on the relative number of failing wells at DACs in the Project Area ranks the DACs in terms of the absolute number of failing wells relative to the rest of the state.[66] While these Kern County DACs are often in the bottom 10 percentile for total number of failure-susceptible wells, this is an inappropriate benchmark because the DACs have fewer wells than elsewhere in the state, making each failure-susceptible well far more dangerous to local communities. To exemplify the error of the County's approach, the Communities of Cherokee Strip and Mexican Colony are each served by only two wells, one of which is susceptible to failure.[67] Yet the chart in Appendix C ranks both of these communities as between the 0-10 percentile in failure susceptible wells, implying that they are not put at significant risk as a result of potential well failure—even though half of their respective wells are at risk. As such, the analysis in Appendix C concluding that "potential well failure because of groundwater level decline is not a pervasive occurrence at project area DACs" is highly dubious, if not completely unsupported.

The County should therefore revise the SSREIR to conduct a more robust analysis of well failure and water resilience in impacted DACs. Rather than just focusing on the number of susceptible wells in each community, it must account for the lack of redundancy in communities served by few wells and the proportion of water supply at risk of failure.

[62] Draft SSREIR at 4.17-27.
[63] Draft SSREIR. at 4.17-31 to 4.17-35.
[64] Draft SSREIR at 4.17-115.
[65] Draft SSREIR, Appendix. C at 5.
[66] Draft SSREIR, Appendix. C, at 5-6.
[67] Draft SSREIR at 4.17-35.

2. The Draft SSREIR does not account for contamination risk in dewatered wells.

In addition to looking at the loss of drinking water supplies attributable to the partial and complete dewatering of domestic wells, the SSREIR needs to address a related impact: well contamination. Over-pumping of groundwater does more than simply lower the groundwater table and dewater wells. It also "pollutes water … due to migrating contaminant plumes"[68] and "land subsidence" that "results in an increase in aquifer arsenic concentrations."[69] Yet the Draft SSREIR adds no analysis whatsoever regarding the loss of drinking water supplies due to contamination, other than to acknowledge that water quality at Fuller Acres is impaired due to exceedance of the primary drinking water standard.[70] 0005-26

The SSREIR therefore should, to the extent reasonably possible, analyze the Project's contribution to domestic-well contamination within the Project Area and the susceptibility of DACs to such well contamination.

B. Mitigation Measure 4.17-3 is impermissibly vague and the Draft SSREIR fails to justify its restrictive scope.

We appreciate the steps that the County has taken to reinstate funding to address water supply impacts to DACs, in accordance with the Court of Appeal's mandate. We also appreciate that MM 4.17-3 institutes a requirement that applicants identify the metered wells they intend to source their groundwater from prior to permit issuance. 0005-27

Unfortunately, subsection D of MM 4.17-3, which establishes a "Disadvantaged Communities Water Relief Fund," is poorly written and its muddled language is insufficient to ensure that the Kern County Public Health Services Department (Public Health Department) will select projects for funding that are "sufficiently tied to the actual mitigation of the … impacts at issue," i.e., water supply impacts to DACs in the Project Area.[71] The County therefore should revise the measure as discussed in detail below.

In our previous Scoping Comments, we made clear that the County, in devising appropriate mitigation for water supply impacts, must make sure that DACs are not "forced to pay for or otherwise suffer from a loss of domestic drinking water because of significant impacts caused by the Project and/or other industrial water users."[72] We also noted that community members should be consulted on the development of a new water supply mitigation measure and have a role in its implementation.[73] To the extent that the County is interested in thoughtfully 0005-28

[68] Water Foundation, *Groundwater Management and Safe Drinking Water in the San Joaquin Valley* (June 2020) at 3 (AR 194416).
[69] Smith, R. et al., *Overpumping leads to California groundwater arsenic threat*, Nature Communications 9:2089 (2018) at 1, https://www.nature.com/articles/s41467-018-04475-3.
[70] Draft SSREIR at 4.17-28.
[71] *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1189.
[72] Arvin Petitioners Comments on the Notice of Preparation of a Draft Second Supplemental Recirculated Environmental Impact Report (SSREIR) (SCH# 2013081079) for Revisions to Title-19 Kern County Zoning Ordinance (2024) focused on oil and gas local permitting (PP13280) (Apr. 22, 2024) (Scoping Comments), at 10-11.
[73] *Id.* at 11.

incorporating these suggestions and resuming prior discussions related to MM 4.17-3, we would be glad to continue those conversations with County staff. 0005-28 Cont'd.

1. MM 4.17-3 does not make clear what projects are eligible for funding.

The County should amend MM 4.17-3 to clarify how the Public Health Department may allocate the fee monies received from applicants. Specifically, the measure should be rewritten to explicitly address whether the Disadvantaged Communities Water Relief Fund (Fund) may be used to support: (1) both mandatory and voluntary consolidation projects; (2) extension of service projects (voluntary or mandatory); (3) only projects already selected by the State Water Board for mandatory consolidation or extension of service under the Mandatory Consolidation or Extension of Service for Disadvantaged Communities Program (Mandatory Consolidation Program); and/or (4) projects other than consolidations or extensions of service that are "in support of" the Mandatory Consolidation Program's goals of providing safe drinking water to disadvantaged communities served by at-risk wells and water systems.[74] 0005-29

Nothing in the text of MM 4.17-3 or anywhere else in the Draft SSREIR addresses these crucial questions about how Fund monies may be spent. While MM 4.17-3 directs the Public Health Department to distribute most of the money received by the Fund "in support of" the Mandatory Consolidation Program, there is no guidance explaining what (or whether) criteria exist to determine that a project is "in support of" the Mandatory Consolidation Program.[75] To the extent that this ambiguous language limits the Fund only to supporting projects that could be—or have been—ordered by the State Water Board under SB 403 (2021), SB 88 (2015), or AB 508 (2019), the program is too narrow to provide effective mitigation to many communities, as discussed *infra*.[76]

MM 4.17-3 further specifies that the Public Health Department may distribute matching funding for DWR grants, non-profit organizations, water districts' staffing for engineering and construction project needs, or "implementation of construction projects qualifying for the State Water Board's Mandatory Consolidation Program or meeting the criteria established for consolidation by the State Water Board."[77] This additional language does not help clarify how the Fund may distribute the fees it collects. 0005-30

For instance, it is unclear what is meant by MM 4.17-3's reference to "criteria established for consolidation by the State Water Board."[78] The State Water Board has no criteria specifying when a water system may voluntarily undertake a consolidation project. While the State Water Board has established several criteria that must be met before it can order mandatory

[74] *See* State Water Board, *Frequently Asked Questions on Mandatory Consolidation or Extension of Service for Water Systems* at 1 (last updated Nov. 7, 2016), https://www.waterboards.ca.gov/drinking_water/programs/compliance/docs/fs082415_mand_consolid_faq.pdf.
[75] Draft SSREIR at 4.17-114.
[76] *See infra* section IV.B.3.
[77] Draft SSREIR at 4.17-115.
[78] Draft SSREIR at 4.17-115.

consolidation—including that the system is (1) in a "disadvantaged community," (2) has documented water quality or quantity issues, and (3) has a functional water system nearby that can serve the subsumed system—these are not criteria for consolidation, but criteria that must be met before the State Water Board can *mandate* consolidation. Further, in addition to these criteria, there are numerous other laws and regulations governing or otherwise affecting consolidation for different water providers, which the Draft SSREIR fails to acknowledge or discuss.[79]

0005-30 Cont'd.

MM 4.17-3 also seemingly contemplates that the Fund may be used to match unnamed grants from the Department of Water Resources (DWR), with the Draft SSREIR stating that the Public Health Department will "direct the funding to water districts, mutual water companies, and non-profit non-governmental organizations that receive DWR grants and need additional funding to implement."[80] But it is not clear what grant program(s) these statements refer to. For instance, as demonstrated in the Draft SSREIR's Table 4.17-22, the grant programs focusing on drinking water consolidation are largely administered by the State Water Board, not DWR.[81] Further, most of these programs are dedicated to a range of projects in addition to water system consolidation. It is unclear if MM 4.17-3 contemplates funding these non-consolidation projects, further adding to the lack of clarity underlying the County's choice of mitigation.

0005-31

MM 4.17-3 leaves the public to guess at the answer to these questions. The SSREIR therefore must be amended to clarify whether non-consolidation projects will be eligible for matching grant funding from the Public Health Department; whether voluntary consolidations in DACs not selected for Mandatory Consolidation by the State Water Board will be eligible for funding; whether extensions of service will be eligible for funding by the Public Health Department; and, more broadly, what criteria the Public Health Department must consider in allocating funding.

2. *MM 4.17-3, as written, does not explicitly require the Public Health Department to direct funds to DACs, include public participation provisions, or ensure accountability in project selection.*

The County has a duty to ensure the SSREIR adopts mitigation "sufficiently tied to the actual mitigation of the … impacts at issue."[82] Here, although MM 4.17-3 purports to mitigate impacts specifically to DACs and establish a "Disadvantaged Communities Water Relief Fund," there is no clear mandate written into the language of the mitigation measure requiring the Public Health Department to ensure that funds are spent (1) on projects addressing water supply issues in DACs, (2) with appropriate procedural protections to ensure community input and

0005-32

[79] *See* Kristin Dobbin, Justin McBride, and Gregory Pierce, *Designing Water System Consolidation Projects: Considerations for California Communities*, UCLA Luskin Center for Innovation, Appendix A (Oct. 2022), https://innovation.luskin.ucla.edu/wp-content/uploads/2022/10/Designing-Water-System-Consolidation-Projects.pdf.

[80] Draft SSREIR at 4.17-112.

[81] These programs include funding directly from the Mandatory Consolidation Program, the Safe and Affordable Funding for Equity and Resilience (SAFER) fund, the Safe and Affordable Drinking Water Fund, and the Drinking Water State Revolving Fund. Draft SSREIR at 4.17-40-4.17-41.

[82] *Anderson First Coalition*, 130 Cal.App.4th at 1189.

involvement in the decision-making process, and (3) with due regard for community priorities, including rate relief and securing safe, reliable drinking water while consolidation or other projects are pending. 0005-32 Cont'd.

In our recent Scoping Comments, we urged the County to incorporate cost protections for DACs from losses of domestic drinking water, provide alternate sources when wells are dewatered or otherwise compromised, and consult community members on developing and implementing mitigation projects.[83] Unfortunately, the County has failed to integrate these priorities into MM 4.17-3, which seemingly allows the Public Health Department to make funding decisions behind closed doors and devoid of participation from impacted communities. 0005-33

To correct these deficiencies, the County should amend MM 4.17-3 to:

- Require an affirmative determination from the Public Health Department that the community benefited by the project receiving funding is a DAC;
- Hold public hearings prior to significant funding decisions or when adopting funding criteria;
- Create publicly available reports describing all projects supported by the Fund in both English and Spanish; and
- Appoint an advisory committee consisting of County staff, subject matter experts, and community members from DACs to approve funding decisions.

Further, the County seemingly limits its analysis of impacts to unincorporated communities, excluding incorporated cities like Shafter that may nonetheless be impacted by the Project. However, because Shafter's water system serves many DACs in the Project Area and may experience water supply impacts as well,[84] the County should make explicit that the Fund may also allocate monies to projects benefiting DACs in the boundaries of incorporated cities that are also impacted by the Project. 0005-34

3. <u>To the extent that MM 4.17-3 limits funding only to consolidation projects, it is impermissibly narrow.</u>

As discussed above, the public has been left to guess at the scope of different projects that the Public Health Department may support through MM 4.17-3. However, to the extent that the Draft SSREIR implies that the Public Health Department may only allocate funding to "water districts that are mandated to connect and serve [] failing small systems," [85] MM 4.17-3 is too rigid to serve as effective mitigation. The water supply problems facing DACs in the Project Area necessarily require flexible solutions, and limiting mitigation funding to mandatory consolidation projects applies a one-size-fits-all solution that may not be practical or advisable 0005-35

[83] Scoping Comments at 10-11.
[84] *See* Draft SSREIR at 4.17-30.
[85] Draft SSREIR at 4.17-111.

for all impacted DACs in and around the Project Area. Indeed, in many cases, consolidation is not the best solution to address water supply impacts in DACs.[86]

0005-35 Cont'd.

Notably, per the State Water Board, in the 10 years that the Mandatory Consolidation Program has existed, only three of the twenty-two consolidation projects the State Board has undertaken have been successfully completed.[87] The remaining nineteen projects (some of which first began in 2015) are still pending, meaning that impacted communities have seen few benefits from the Mandatory Consolidation Program. Few of these projects have undertaken interim solutions to better serve DACs while they await consolidation.[88]

Moreover, the Draft SSREIR makes no attempt to identify communities "in the central valley portion of Kern County" where consolidation may or may not be suitable to address water supply impacts.[89]

0005-36

Nor does it explain why consolidation is preferable to the numerous other measures designed to increase water supply availability, which the Draft SSREIR lists in its revised analysis.[90] Some of these measures include deepening wells, installing new wells, expanding water district service areas, or installing and operating community water treatment facilities.[91] Indeed, as recognized by the Draft SSREIR, "improvements to water supply wells, water distribution systems, and potentially water treatment systems at DACs can improve the reliability of water supply systems, especially at DACs where [] water supply wells have been identified as susceptible to failure because of declining groundwater levels, where a community relies on a small number of wells and hence has little redundancy, or some source water does not meet drinking water standards."[92] The SSREIR should consider this wider range of potential projects for funding.

0005-37

Where several mitigation measures are available to mitigate an impact, "each should be discussed and the basis for selecting a particular measure should be identified."[93] As such, to the extent that the County intends to limit the Public Health Department's use of MM 4.17-3 monies to only support consolidation projects or—even more narrowly—only mandatory consolidation projects, the SSREIR must explain why it chose to eliminate other, non-consolidation solutions from consideration for funding.

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[86] *See Designing Water System Consolidation Projects* at 17-24 (discussing circumstances under which consolidation may be appropriate).
[87] State Water Resources Control Bd., Mandatory Consolidation: Community and Program Info (last visited Apr. 24, 2025), https://www.waterboards.ca.gov/drinking_water/programs/compliance/ (naming Yosemite High School, Ceres West Mobile Home Park, and Pratt Mutual Water Company projects).
[88] *Id.* (The State Water Board has documented only two interim solutions deployed in projects originating as mandatory consolidation projects.).
[89] Draft SSREIR at 4.17-115.
[90] Draft SSREIR at 4.17-35 to 4.17-36
[91] Draft SSREIR at 4.17-35 to 4.17-36.
[92] Draft SSREIR at 4.17-36.
[93] CEQA Guidelines § 15126.4(a)(1)(B).

4. MM 4.17-3 should require increasing applicant fees over time to keep pace with water prices.

We appreciate that MM 4.17-3's new water supply mitigation fee of $9,732 per well ($9,592 to be allocated to funded projects and $140 to be used to support the Public Health Department's staffing needs) is substantially greater than the fee previously levied by the County. While we further appreciate that the Draft SSREIR explains how the County arrived at its per-well mitigation fee,[94] the County's calculations nonetheless fail to effectively connect the fee to the likely impact on water systems in DACs because they do not account for increasing water prices over the next 25 years. Instead, the Draft SSREIR merely asserts that the current cost of treated municipal and industrial (M&I) water is $2,200 per acre foot and that—under the Draft SSREIR's estimated annual M&I water consumption in 2035—each well operator must offset 4.36 acres of M&I water consumption, which the Draft SSREIR attempts to do through the Fund. 0005-38

However, the Draft SSREIR does not explain how it arrived at its estimate that an acre foot of treated M&I water in the County costs $2,200 on average. Even assuming this estimate is correct, the Draft SSREIR provides no basis for its assumption that the cost of treated M&I water in the County will remain at $2,200 per acre foot over the course of the Project's 25-year lifespan. This assumption is unsupported and probably incorrect. Indeed, just last month, the Bakersfield City Council approved water rate increases of 50 percent over the next five years, with the first rate increases going into effect on July 1, 2025.[95] It is likely that the price of recycled M&I water will increase as water becomes more scarce, demand for treated water increases, and costs of storage, conveyance, and infrastructure rise.

In accordance with this probable increase in costs, the County's cannot rely on the unsupported assumption that the cost of treated water will remain static over the Project's 25-year lifespan. The County should therefore amend MM 4.17-3 to increase its permitting fee annually, in line with actual or projected water costs, to ensure that the measure effectively mitigates the impacts it is designed to address.

C. The County should consider additional feasible mitigation, including measures it declined to adopt previously.

Beyond amending the SSREIR's water supply analysis and mitigation in line with the above discussion, the County should also revisit previously rejected suggestions to mitigate water supply impacts. Much of the County's fundamental analysis is now a decade old and relies on outdated information, technology, and regulatory landscapes.[96] To comply with CEQA's 0005-39

[94] Draft SSREIR at 4.17-111.

[95] Peter Segall, *City Moves Forward With Proposed Sewer, Water Rate Increases*, Bakersfield Californian (Mar. 27, 2025), https://www.bakersfield.com/news/city-moves-forward-with-proposed-sewer-water-rate-increases/article_e1ae7652-f4fc-4db8-aedb-86f8fd503589.html.

[96] See *Residents Against Specific Plan 380 v. County of Riverside* (2017) 9 Cal.App.5th 941, 970 ("an adequate EIR must respond to specific suggestions for mitigating a significant environmental impact unless the suggested mitigation is facially infeasible").

mandate to consider and implement all feasible mitigation, the Draft SSREIR should update its analysis of and, where feasible, adopt the following mitigation:

0005-39 Cont'd.

- **Increase oil and gas use of produced water:** If the County cannot otherwise mitigate the Ordinance's significant adverse impacts, it should require that operators use produced water for oil and gas activities to the greatest extent feasible. The Draft SSREIR acknowledges that oil and gas operators "may be able to substitute additional produced water for M&I supplies to conduct certain oil field activities, including [Enhanced Oil Recovery] and steam production."[97] There should already be significant analysis of this potential reuse pursuant to the original 2015 EIR's Mitigation Measures 4.17-2 and 4.17-3, which required the County to work with other stakeholders including "the five biggest oil users of [M&I] water by volume" to evaluate opportunities to increase the reuse of produced water.[98] Given CEQA's obligation to mitigate significant impacts to the extent feasible, it is not clear why the Draft SSREIR does not propose maximizing reuse, or at least provide substantial evidence demonstrating that additional use would be infeasible.

- **Increase oil and gas use of reclaimed water:** Like produced water, the County should require operators to use reclaimed water for oil and gas activities to the greatest extent feasible. The SSREIR should be amended to evaluate the feasibility of mitigating the Project's water supply impacts by using reclaimed water.

- **Consider other demand reduction measures within the oil and gas industry:** Pursuant to the original 2015 EIR's Mitigation Measure 4.17-2, the five biggest oil industry users of M&I water were required "to develop and implement a plan identifying new measures to reduce [M&I] water use by 2020.[99] This measure was in place until it was struck done by the Court of Appeal in 2020, and yet we are not aware of the County or industry publicly releasing the required plan. The SSREIR should be amended to discuss the plan and consider any potentially feasible methods of reducing M&I water use within the oil and gas industry.

0005-40

- **Consider demand reduction measures more generally**: The SSREIR should consider other water demand reduction measures such as land purchase,[100] or incentive programs for landowners to fallow their land or to convert to less water-intensive crops.[101] Though some such measures may be developed by other authorities pursuant to the Sustainable Groundwater Management Act (SGMA), the immediate implementation of demand-reduction measures is within the power of the County and would ameliorate at least some

0005-41

[97] Draft SSREIR at 4.9-187.
[98] *See* Draft SSREIR at 4.17-113 to 4.17-114.
[99] Draft SSREIR at 4.17-113.
[100] *See*, *e.g.*, SSJMUD Management Area Plan, at pp. 193-94; Wheeler Ridge-Maricopa Water Storage District Management Area Plan, Table PMA-1, at p. 1.
[101] See, e.g., Arvin-Edison Water Storage District Management Area Plan, Table PMA-1, at p. 5.

of the Ordinance's most harmful and inequitable water supply impacts, such as its contribution to domestic wells going dry in DACs.[102]

0005-41 Cont'd.

- **Consider measures to address de-watered domestic wells:** The SSREIR should consider a measure or measures that would directly mitigate the harms associated with domestic wells going dry as a result of decreased groundwater storage. More specifically, the County could mitigate water supply impacts by developing a drinking water protection program, such as the one described in SGMA comments by Leadership Counsel for Justice & Accountability, Self-Help Enterprises, and Community Water Center, to protect residents against dry wells.[103]

0005-42

V. The Draft SSREIR fails to adequately analyze harm to certain species and does not adopt adequate mitigation.

The Draft SSREIR's analysis and mitigation measures for the Temblor legless lizard and Crotch's bumble bee are inadequate because they fail to include important new information for these state-listed candidate species and fail to provide science-based and sufficiently protective buffer distances for both species. The County must revise and strengthen the SSREIR to account for new significant information regarding the species and potential harm from oil and gas activities.

0005-43

A. Temblor legless lizard

The Draft SSREIR's Supplemental Analysis (Section 4.18) fails to include an important 2024 field study by United States Geological Survey herpetologist Jonathan Rose and colleagues (hereafter "Rose et al. 2024") on the Temblor legless lizard in Kern and Fresno counties that documents new detection locations and lizard habitat characteristics and, most critically, makes evidence-based recommendations for surveys for Temblor legless lizards.[104] The study

0005-44

[102] *See* Letter from Jasmene del Aguila and Amanda Monaco, Leadership Counsel for Justice and Accountability, to Department of Water Resources and State Water Resources Control Board, Re: Recommendations for DWR and SWRCB Action Regarding the Kern Groundwater Authority Groundwater Sustainability Plan at pp. 26-28 (June 3, 2020); *see also* Water Foundation, Groundwater Management and Safe Drinking Water in the San Joaquin Valley, at pp. 9-12 (June 2020), https://waterfdn.org/wp-content/uploads/2020/06/Groundwater-Management-and-Safe-Drinking-Water-in-the-San-Joaquin-Valley-Brief-6-2020.pdf (showing domestic wells in the Project Area likely to go dry under current GSPs).

[103] *See* Letter from Jasmene del Aguila and Amanda Monaco at Appendix B (June 3, 2020); *see also* Letter from Tien Tran et al., Community Water Center, Clean Water Action, Leadership Counsel for Justice and Accountability, and Central California Environmental Justice Network Recommendations for Kern Subbasin Mitigation Program (Dec. 18, 2024), https://drive.google.com/file/d/144D24Lkspe9cVYhCdKT9DthKsDcGKMuc/view (recommending implementation of demand reduction programs, fundraising efforts for small water districts, increased coordination with management zones, and increased community representation on evaluation committees).

[104] Rose JP, Camp SM, Pascetto ZN, Johnson CB, Lei SH, Napolitano GR, Schoenig EJ, Macias DA, Jordan AC, Halstead BJ. 2024, *Digging into detectability: uncovering how temperature influences*

concludes that numerous surveys over multiple years are necessary to determine whether a site is occupied by Temblor legless lizards. Further, those surveys should be conducted in winter and early spring when lizard detectability is highest. These survey recommendations and the new information in Rose et al. (2024) must be incorporated into the SSREIR.

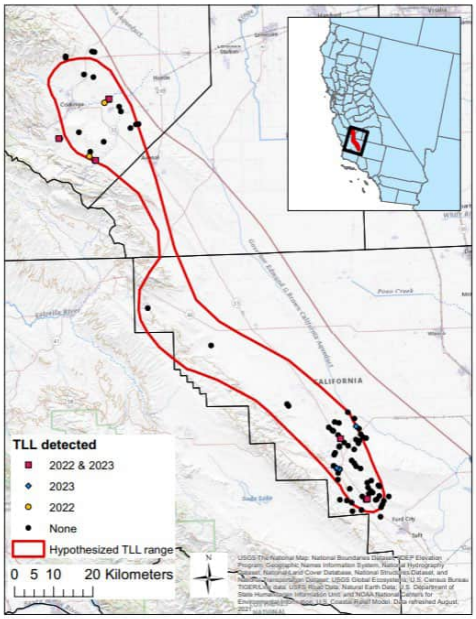
0005-44 Cont'd.

The Draft SSREIR also states that mitigation for all legless lizards, including the Temblor legless lizard, is covered under MM 4.4.3, which was modified in the Draft SSREIR to increase the required buffer distance to 50 feet.[105] But the buffer distance is unsupported by any analysis or discussion. The SSREIR must provide a science-based rationale for its buffer for the Temblor legless lizard, which should be larger than 50 feet to be sufficiently protective.

1. *The SSREIR must incorporate and address significant new information from Rose et al. (2024).*

The SSREIR must incorporate new findings that are available since the County's prior environmental review was adopted. Rose et al. (2024) surveyed for Temblor legless lizards in Kern and Fresno counties during mid-February to mid-April in 2022 and 2023 in the winter to early spring season when lizard detectability is highest due to mild temperatures and higher soil moisture near the surface. The researchers surveyed a total of 89 sites in 2022 (n=60) and 2023 (n=68) and detected Temblor legless lizards at 12 of 89 sites, including five new localities. The species was detected at 6 of 65 sites surveyed in Kern County and 6 of 24 sites in Fresno County, as shown in the figure below excerpted from Rose et al. (2024).[106] Importantly, several new Temblor legless lizard detection sites were documented in Kern County.

0005-45



detection probability of the fossorial Temblor legless lizard, Journal of Fish and Wildlife Management 15(1):237–250; e1944-687X, https://doi.org/10.3996/JFWM-23-039.

[105] Draft SSREIR at 4.18-11.

[106] Rose et al. (2024) at 240.

In addition, Rose et al. (2024) found that Temblor legless lizards are more likely to occur at sites with loose or friable soils without high clay soil content and near ephemeral streams. Most Temblor legless lizards were found at sites with soil characterized as loamy sand, followed by sand, loam, silty clay, and sandy loam.[107] The proximity of Temblor legless lizard occurrences to ephemeral streams (e.g., washes and alluvial fans) is likely due to these habitats having loose, friable soils suitable for burrowing. Temblor legless lizards occurred at elevations ranging from 127 to 427 m, covering most of the range of elevation at surveyed sites (98 to 589 m).[108] The study authors observed most Temblor legless lizards under cover boards placed under shrubs or trees, followed by grass and no vegetation.

0005-45
Cont'd.

Rose et al. (2024) provides important survey recommendations for Temblor legless lizards that must be incorporated into the SSREIR's mitigation survey protocols. Crucially, the study concluded that numerous surveys over multiple years are needed to determine whether a site is occupied by Temblor legless lizards for surveys done in winter and early spring (mid-February to mid-April) when lizard detectability is highest. The study authors found that "a few negative surveys are not sufficient to conclude that this species is absent from a site,"[109] and cautioned that their "results also show that surveys over multiple years might be needed to document the presence of Temblor legless lizards, particularly during droughts when conditions at the surface are unsuitable."[110] The study recommends doing surveys in winter and early spring when the probability of detecting lizards is highest. For surveys done in summer when the detectability of Temblor legless lizards is lower, the study concluded that an even larger number of surveys would be required.[111]

The study found that "at many sites" Temblor legless lizards were not observed until the researchers had conducted 3 or more surveys.[112] At 3 of 12 sites where lizards were detected over the 2-year survey period, lizards were observed during surveys in one year but not in the other year.[113]

The study estimated the number of sequential negative surveys (n*) required to have high confidence that a site was truly unoccupied by Temblor legless lizards for surveys done in winter and early spring from mid-February to mid-April. The number of surveys needed depends on the substrate temperature at the time of the survey, soil texture, and the distance that the site was located from an ephemeral stream. The number of sequential negative surveys needed was found to range up to 16 surveys in habitat areas with low clay soil, lower substrate temperature (~10°C) and close proximity to ephemeral streams.[114]

Specifically, the study states:

[107] *Id*. at 247.
[108] *Id*. at 244.
[109] *Id*. at 245.
[110] *Ibid*.
[111] *Ibid*.
[112] *Id*. at 248.
[113] *Id*. at 243.
[114] *Id*. at 247, figure 6.

> Sites closer to ephemeral streams required more surveys because their baseline occupancy probability was higher. Likewise, sites with low clay content soils required more surveys with non-detection to have high confidence that the site was unoccupied. More surveys were required to have high confidence that a site was unoccupied if the substrate temperature at the time of the survey was low (<15°C) because p [the probability of detection] was lower at colder temperatures. *It is clear from these calculations and the raw detection data that a few negative surveys are not sufficient to conclude that this species is absent from a site.* In addition to prior belief about detection probability and occupancy, the estimated number of negative surveys presented above is also highly dependent on the availability of Temblor legless lizards for detection near the surface, which was generally high during our late-winter to early spring survey period. If the probability that Temblor legless lizards were available for detection was lower (as expected in the hot, dry summer), then a larger number of negative surveys would be required to have high confidence that the species was absent from a site. We note that our estimates of detection probability are potentially dependent on the number of cover boards that we used at each site. Increasing the number of cover boards used to sample each site would likely increase detection probability, which could be valuable for determining occupancy of Temblor legless lizards.[115]

0005-45 Cont'd.

In light of the foregoing, the Draft SSREIR's requirement to conduct a single biological survey is insufficient to detect potential Temblor legless lizards in the Project Area. The SSREIR must be amended to require multiple surveys conducted at appropriate times to sufficiently mitigate potential harm to Temblor legless lizards.

2. <u>The SSREIR must provide a scientifically based and substantially protective buffer distance.</u>

MM 4.4-3 states that "[p]rotective buffers shall be established around active dens and/or burrows of special-status animal species, or populations of special-status plant species to avoid unauthorized take of protected species as listed in the Table 14.18-2," which specifies a 50-foot buffer for Temblor legless lizards.[116] The SSREIR must clarify that buffers will be established around any detection locations for Temblor legless lizard individuals, not just burrows or dens.

0005-46

Further, the SSREIR must increase this short, 50-foot distance, which the Draft SSREIR does not support with any scientific evidence or rationale. A much larger distance is necessary, based on the significant threats to this species posed by oil and gas development. Scientific studies summarized in a petition to list the species pursuant to the California Endangered Species Act and the California Department of Fish and Wildlife's (CDFW) petition review demonstrate that the significant disturbance and habitat destruction caused by oil and gas development can harm or kill lizards via direct habitat destruction and fragmentation, soil compaction, removal of

[115] *Id*. at 245 (emphasis added).
[116] Draft SSREIR at 4.18-22.

the duff and litter layer the lizard requires, loss of native plant life, changes in soil moisture, oil spills and produced water spills, noise and light pollution, and human disturbance. [117]

0005-46 Cont'd.

While all oil and gas development poses a threat to the Temblor legless lizard, commonly used oil and gas extraction techniques in the lizard's range in Kern County, such as steam flooding, cyclic steam injection, and water flooding, are particularly destructive. During steam injection for cyclic steaming and steam flooding, the operator repeatedly injects steam at very high temperature and pressure into the well to heat up the surrounding formation. Repeated steam injection creates some of the harshest conditions to which a well can be subjected. The process is known to result in a particularly high rate of well failure, can cause the ground to shift and collapse, and can cause oil and wastewater to rise to the surface. Cyclic steaming and steam flooding are heavily used in the Midway-Sunset, Cymric, McKittrick, and South Belridge oil fields in the lizard's range in Kern County.

Due to all these foreseeable harms to the lizard and its habitat from oil and gas development, the SSREIR should prohibit oil and gas activity where Temblor legless lizards are known to occur or at minimum require a much larger buffer distance than 50 feet.

B. Crotch's bumble bee

The SSREIR must also incorporate the new survey protocols for the Crotch's bumble bee detailed in the 2023 CDFW report entitled "Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species, June 6, 2023."[118] The SSREIR must also increase the 50-foot buffer distance for the Crotch's bumble bee.

0005-47

1. *New survey protocols must be incorporated into the SSREIR.*

The 2023 CDFW report contains detailed information on survey protocols for the Crotch's bumble bee which must be incorporated into the SSREIR. For example, the CDFW report requires that surveys are submitted to CDFW prior to initiation of ground disturbing project activities and that surveys include the following components:

- Habitat Assessment: A habitat assessment must be conducted across multiple site visits during the Colony Active Season (April to August) to evaluate the likelihood of bumble bees occurring within and adjacent to the project area, including documentation of historical and current species occurrence; proximity to the last known sighting; data from site visits on potential habitat including potential foraging, nesting, and/or overwintering

[117] *See* Center for Biological Diversity, Petition to List the Temblor Legless Lizard (*Anniella Alexanderae*) as an Endangered or Threatened Species Under the California Endangered Species Act (CESA) (Nov. 18, 2021) https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=195786&inline; CDFW, *Evaluation of the Petition from the Center for Biological Diversity to List the Temblor Legless Lizard (Anniella Alexanderae) as Threatened or Endangered Under the California Endangered Species Act* (Mar. 22, 2022) https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=201997&inline.

[118] CDFW, *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (June 6, 2023), https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline

resources; quantification of plant species in bloom and their percent cover; and a general plant diversity assessment.

0005-47 Cont'd.

- On-Site Surveys: At least 3 on-site surveys spaced 2-4 weeks apart during the Colony Active Period must be conducted, when floral resources are present and ideally during peak bloom, to detect foraging bumble bees and potential nesting sites. Bumble bees move nests sites each year; therefore, surveys should be conducted each year that project activities will occur. Even if surveys from a particular project site failed to detect bumble bees one year, project proponents should perform a full round of surveys each year that project activities will occur or assume presence.

- Foraging Bumble Bee Surveys: Focused surveys must be conducted for a minimum of one person-hour of searching per three acres of suitable habitat, not including the time for capture, photography, identification, or release. Alternately, surveys can continue until at least 150 bumble bees have been captured, photographed and/or identified, and released.

- Surveyor Qualifications: Surveyors must be qualified to conduct surveys for the candidate bumble bee species based on several criteria.[119]

The SSREIR must incorporate these survey protocols into its mitigation measures intended to protect the Crotch's bumble bee.

2. The SSREIR must provide a scientifically based and substantially protective buffer distance.

0005-48

As noted above, MM 4.4-3 states that "Protective buffers shall be established around active dens and/or burrows of special-status animal species, or populations of special-status plant species to avoid unauthorized take of protected species as listed in the Table 14.18-2," which specifies a 50-foot buffer for Crotch's bumble bee.[120] The SSREIR must clarify that buffers will be established around detection locations for Crotch's bumble bee individuals as well as nest sites and overwintering sites.

Additionally, the SSREIR should be revised to provide a scientific basis for the buffer distance, which must be increased from 50 feet to be protective. The CDFW report states that bumble bees forage within 1 to 2 km and up to 11.5 km from their nest.[121] A 50-foot buffer distance is therefore inadequate to protect the foraging habitat or nest from the significant destruction and disturbance caused by oil and gas development.

[119] *Id*. at 2-7.
[120] Draft SSREIR at 4.18-14.
[121] CDFW, *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* at 2.

3. *The SSREIR must include compensatory mitigation for the loss of all suitable Crotch's bumble bee habitat.*

0005-49

CDFW has recognized that ground-disturbing projects cause widespread harms to Crotch's bumble bee including mortality, crushing nests and hibernating bee cavities, destruction of breeding and foraging habitat, and loss of important floral resources:

> The loss of nesting and foraging habitat for Crotch's bumble bee, and potentially the loss of individuals in nests due to crushing by construction personnel or equipment, excavation, and placement of soil stockpiles. Direct mortality through crushing or filling of active bee colonies and hibernating bee cavities, reduced reproductive success, loss of suitable breeding and foraging habitats, loss of native vegetation that may support essential foraging habitat.[122]

Consequently, the SSREIR must be revised to include compensatory mitigation in the form of permanently protected mitigation lands for the loss of all suitable Crotch's bumble bee habitat, consistent with CDFW's recommendations for other projects that cause the loss of nesting and foraging habitat for Crotch's bumble bee. CDFW has recommended that Crotch's bumble bees' "floral resources should be mitigated at a 3:1 ratio for permanent impacts in the absence of information regarding the compensatory mitigation site" and that "floral resources should be replaced as close to their original location as is feasible."[123] CDFW has required that mitigation lands be protected in perpetuity under a conservation easement with an endowment established for long-term management of the lands.[124] The compensatory mitigation in MM 4.4-15 is not adequate to mitigate harms to Crotch's bumble bee and the County therefore must include additional compensatory measures.

4. *The SSREIR must evaluate and mitigate air pollution threats to the Crotch's bumble bee.*

0005-50

New scientific information clearly shows that air pollution, including ozone (O_3), NOx, sulfur dioxide (SO_2), and particulate matter (PM), can significantly harm bumble bees, including reductions in survival, abundance, reproduction, and foraging efficiency. In California, higher concentrations of these pollutants have been detected near preproduction and operating oil and gas wells within 1 km of wells and up to 4 km from wells.[125] Oil and gas development from the Project, including well construction and operation, is therefore likely to significantly harm

[122] CDFW, *Vallejo Mill Historical Park Pickleball Courts and Dog Park Project, Mitigated Negative Declaration, SCH No. 2025030735, City of Fremont, Alameda County* (Apr. 16, 2025) https://files.ceqanet.opr.ca.gov/314145-1/attachment/721g8E0A9OtfDHVzQbqe8dV78cy0BavWMKHkrKXqDqSmr9pEY3zN5RlTXdPxQJ8hqQhLga9Gf-nBicCs0.

[123] *Id*. at 7.

[124] *Id*. at 8.

[125] Gonzalez, David J.X. et al., *Upstream oil and gas production and ambient air pollution in California*, 806 Science of the Total Environment 150298 (2022), https://doi.org/10.1016/j.scitotenv.2021.150298.

Crotch's bumble bee. The SSREIR must evaluate this new information and mitigate these foreseeable harms.

0005-50 Cont'd.

New published research includes lab experiments showing that exposing bumble bees to high O_3 concentration impairs their ability to detect flowers and react to VOCs contained in floral scents, reducing their searching and foraging efficiency.[126] Field experiments show that elevating NOx and O_3, individually and in combination, significantly reduces pollinator abundance and flower visits.[127] A meta-analysis of 120 studies found that O_3, NOx, SO_2, and PM have widespread negative effects on pollinators including bumble bees such as reductions in survival, reproduction, abundance, searching efficiency, and feeding efficiency.[128] Importantly, this study found that even low levels of pollution are damaging. The study concluded that "air pollution needs to be carefully considered alongside other threats in management plans and policies aiming to safeguard these beneficial invertebrates."[129]

In light of this new information, the SSREIR must evaluate and mitigate air pollution threats to Crotch's bumble bee.

VI. The County must consider changed circumstances and new information pertaining to other environmental impacts.

Following the initial certification of an environmental impact report, a subsequent or supplemental analysis must be prepared when: "(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report[;] (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report[; or] (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available."[130]

0005-51

Here, in the time since the Board of Supervisors first certified the original EIR in 2015, Project activities and circumstances have changed substantially, and new studies and other new information reveal that the impacts of oil and gas development are substantially greater than previously acknowledged in the 2015 EIR, 2018 Supplemental EIR (SEIR), or subsequent Supplemental Recirculated EIR (SREIR). Consequently, the SSREIR should do more than narrowly revisit those portions of the SREIR that the Court of Appeal deemed legally deficient; the County should also reevaluate and update several other impact analyses to ensure decision makers and the public are adequately informed before the Project is readopted.

[126] Vanderplanck, M. et al., *Ozone pollution alters olfaction and behavior of pollinators*, 10 Antioxidants 636 (2021), https://doi.org/10.3390/antiox10050636
[127] Ryalls, J.M.W. et al., *Anthropogenic air pollutants reduce insect mediated pollination services*, 297 Environmental Pollution 118847 (2022), https://doi.org/10.1016/j.envpol.2022.118847
[128] Ryalls, J.M.W. et al., Air pollution disproportionately impairs beneficial invertebrates: a meta-analysis, 15 Nature Communications 5447 (2024), https://doi.org/10.1038/s41467-024-49729-5
[129] *Id*. at 6.
[130] Public Resources Code, § 21166.

A. Carbon capture and storage facilities located in oil fields

The Draft SSREIR fails to address a new category of oilfield activity that has emerged since the original EIR was certified: carbon capture and storage (CCS). As currently proposed, operators intend to gather carbon dioxide (CO_2) from oil and gas operations at existing oil fields and, relying heavily on current oilfield infrastructure including pipelines and wells, inject the CO_2 into depleted reservoir formations for long-term storage. 0005-52

At this point, at least three CCS projects are planned for co-location at oil fields that are identified in the Draft SSREIR as part of this Project:[131] 0005-53

- On October 21, 2024, the County issued a conditional use permit and certified a final environmental impact report for the "Carbon TerraVault I" project proposed by California Resources Corporation (CRC).[132] Set to be built "[w]ithin the administrative boundary of the Elk Hills oilfield," "[t]he initial source of CO_2 is the pre-combustion oilfield gas from infield locations, including uses associated with the existing Elk Hills Power Plant."[133]

- On June 9, 2023, the County issued a notice of preparation for the CarbonFrontier CCS project by Aera Energy.[134] Proposed to be located "within the administrative boundaries of the North and South Belridge oilfi[illegible]," "[t]he proposed project would capture CO_2 from existing sources within the Sout[illegible]lge oil field and transport it by pipeline to dedicated Class VI injection wells within the North Belridge oil field to be injected into identified geologically confined reservoirs for storage."[135] The County has since issued a draft and final environmental impact report for the project, but a hearing before the Planning Commission has been delayed at the request of the project applicant.[136] 0005-51

- On April 2, 2024, the County issued a notice of preparation for the Kern River Eastridge CCS Project by Chevron U.S.A Inc., planned to be located "within the administrative

[131] Draft SSREIR at 3-28 to 3-31, Table 3-7 ("Oil Fields Currently Delineated by CalGEM within Project Boundary Area").
[132] Global Newswire, *Kern County Board of Supervisors Advance CRC's Carbon TerraVault I Project* (Oct. 21, 2024), https://psbweb.kerncounty.com/planning/pdfs/eirs/ctv1/CTV1_DEIR_Vol_1_Ch_1-12_upd.pdf.
[133] Kern County Planning and Natural Resources Department, *Notice of Availability for Public Review and Hearing on the Draft Recirculated Environmental Impact Report for the Carbon Terra Vault I (Kern County) Project* at 1-2, https://psbweb.kerncounty.com/planning/pdfs/eirs/ctv1/CTV1_RDEIR_Vol1.pdf.
[134] Kern County Planning and Natural Resources Department, *Notice of Preparation (NOP) of a draft environmental impact report (EIR) for the CarbonFrontier CCS Project by Aera Energy, LLC* (June 9, 2023), https://psbweb.kerncounty.com/planning/pdfs/notices/CFCCS_NOP_IS_FINAL_6.7.23_Online_Version_003_.pdf.
[135] *Id*. at 1-2.
[136] *See generally,* Kern County Planning and Natural Resources Department, Planning Commission Staff Report Addendum (Oct. 10, 2024) at 2 and attached Correspondence, https://psbweb.kerncounty.com/UtilityPages/Planning/StaffReports/PCHearings/StaffReport/2024/101024_CarbonFrontierCCS_Various_PLN22-00137.pdf.

boundary of the Kern River Oilfield."[137] The project is intended "for the capture and transport of CO_2 from one source: the infield Eastridge Cogeneration Plant."[138]

0005-53 Cont'd.

Significantly, these projects may just be the first of many to be pursued in existing oil fields by oil and gas operators and other fossil fuel interests. A 2020 report by Lawrence Livermore National Lab identified areas in the Southern San Joaquin Basin, including existing oil fields within Kern County, as prominent candidates for the development of CCS facilities. [139] County officials have also articulated a strong interest in developing CCS facilities,[140] and the Kern County Planning and Natural Resources Department issued a report entitled "Envisioning A Carbon Management Business Park."[141]

The SSREIR therefore must address the environmental impacts from the construction and operation of CCS facilities either as direct impacts of the Project or, at the very least, in an updated analysis of cumulative impacts.

The construction and operation of CCS facilities to collect and store CO_2 generated by oil and gas development activities would seem to fall squarely within the Project Description, which broadly encompasses "potential future drilling and operational activities that could occur within the Project Area."[142] The Project Description covers "installation and operation of ancillary equipment and facilities," which the County has declared "is an integral component of oil and gas exploration and production."[143] The Project Description explicitly includes "gas … separation and treatment process[es] and related facilities,"[144] which aptly describes CCS operations.

0005-54

If not analyzed and mitigated as direct impacts of the Project, the SSREIR must at least address CCS as part of the SSREIR's cumulative impacts analysis. CEQA requires that an EIR address all "probable future projects" in a cumulative impacts analysis.[145] Separate projects that "are undergoing environmental review," such as the three specific oilfield CCS projects flagged

0005-55

[137] Kern County Planning and Natural Resources Department, *Notice of Preparation (NOP) of a draft environmental impact report (EIR) for the Kern River Eastridge carbon capture and storage Project by Chevron U.S.A Inc.* (Apr. 2, 2024), https://psbweb.kerncounty.com/planning/pdfs/notices/KRECCS_NOP_CLEAN_FULL_ONLINE_4_2_24.pdf.
[138] *Id*. at 1-2
[139] Sarah E. Baker et al., *Getting to Neutral; Options for Negative Carbon Emissions in California* (Aug. 2020), 92-95, https://gs.llnl.gov/sites/gs/files/2021-08/getting_to_neutral.pdf.
[140] *See* Emma Foehringer Merchant and Joshua Yeager, *California's Oil Country Faces an 'Existential' Threat. Kern County Is Betting on the Carbon Removal Industry to Save It*, Inside Climate News (Jan. 16, 2024), https://insideclimatenews.org/news/16012024/californias-oil-country-faces-existential-threat/.
[141] Kern County Planning and Natural Resources Department, *Envisioning A Carbon Management Business Park* (June 2023), https://cmbp.kernplanning.com/wp-content/themes/kern/co--assets/general/CMBP-Report-2023.pdf.
[142] Draft SSREIR at 3-42.
[143] Draft SSREIR at 3-50.
[144] Draft SSREIR at 3-56.
[145] CEQA Guidelines, § 15130(b)(1)(A).

above, necessarily constitute "reasonably probable future projects" that must be addressed by the SSREIR.[146]

0005-55 Cont'd.

It is crucial that the SSREIR account for the impacts of proposed and possible oilfield CCS facilities because they will add to the public health and environmental burdens caused by the Project. For example, the EIR for the Carbon TerraVault I CCS project concluded that it will cause significant and unavoidable impacts on Air Quality, Greenhouses Gases, and Mineral Resources.[147] The EIR also found cumulatively significant impacts on Aesthetics and Visual Resources, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gases, Hydrology and Water Quality (Groundwater Supply), Mineral Resources, and Utilities and Service Systems (Groundwater Supply).[148]

The proposed addition of the CCS facilities is particularly consequential for the County's previous evaluation of direct and cumulative impacts related to the release of greenhouse gas emissions. The County last evaluated greenhouse gas emissions for the Project in the original 2015 EIR, which did not mention let alone evaluate CCS technologies. Developing CCS facilities in existing oil fields poses new and substantially more significant greenhouse gas impacts both because well penetrations may allow CO_2 intended for sequestration to escape[149] and ongoing oilfield operations—including induced seismicity caused by wastewater injection practices[150]—likewise could compromise CO_2 storage.

B. Other co-located facilities

The SSREIR should also be updated and revised to address the cumulative impacts posed by other new projects that have commenced or been proposed in Kern County since the original EIR's certification. Of particular relevance are several projects, beyond the CCS projects noted above, that have been proposed for co-location at or adjacent to oil fields in the Project Area. For example, Lone Cypress Energy Services has proposed to develop the Elk Hills Blue Hydrogen project "within the administrative boundary of Elk Hills Oil Field."[151] Other potentially co-located facilities are described on the County's "Carbon Management Business Park" website.[152]

0005-56

C. Greenhouse gases and climate change

New information regarding the impacts of climate change has become available since the EIR was originally certified in 2015. Many additional studies highlight the major role that fossil

0005-57

[146] *Gray,* 167 Cal.App.4th at 1127–28.
[147] CTV I EIR at 1-11 to 1-14.
[148] *Id*. at 1-15.
[149] Dominic DiGiulio, Evaluation of Draft Environmental Impact Report on Geological Storage of Carbon Dioxide at the Carbon TerraVault I Facility in Kern County, California (Feb. 25, 2024).
[150] *See* EIR at 4.6-53 (AR1399).
[151] Kern County Planning and Natural Resources Department, *Notice of preparation (NOP) of a Draft environmental Impact Report (EIR) for the Elk Hills Blue Hydrogen Project by Lone Cypress Energy Services* (Feb. 28, 2024), https://psbweb.kerncounty.com/planning/pdfs/notices/elk_hills_blue_hydrogen_nop.pdf.
[152] County of Kern, *What is a Carbon Management Business Park?* (2024), https://cmbp.kernplanning.com/.

fuel production plays in contributing to serious consequences of climate change, including more frequent and severe droughts, forest fires, floods, heatwaves, and other extreme weather. For example, the International Panel on Climate Change completed its sixth assessment cycle and released a synthesis report in July 2023.[153] The SSREIR should update the 2015 EIR's outdated analysis of greenhouse gas emissions and global climate change impacts to reflect this latest science. 0005-57 Cont'd.

Of particular significance, scientists' understanding of the dangers posed by methane emissions has progressed significantly since the County last evaluated the impact of greenhouse gas in 2015. In 2021, the global mean atmospheric concentration of methane reached 1,908 parts per billion, 2.6 times higher than before the industrial revolution.[154] Oil and natural gas operations are the nation's largest industrial source of methane, a climate "super-pollutant" responsible for one-third of the warming from greenhouse gases occurring today.[155] The International Energy Agency's Global Methane Tracker showed that oil and gas accounted for 82.3 million tons of methane emissions in 2022.[156] 0005-58

The SSREIR should address recent research indicating a high degree of variability among oil and gas well leaks, whereby some wells are "super-emitters" discharging many times more methane due to malfunctioning oilfield equipment.[157] In April 2024, the California Air Resources Board (CARB) published the results of a multi-year study of airborne methane plumes across the state, including in Kern County.[158] The study found an alarming number of methane leaks, 40% of which were attributable to broken or malfunctioning equipment.[159] Emissions were "highly intermittent" and required repeated measurements to detect them despite the large volume.[160] 0005-59

The SSREIR also should address regulatory changes. On June 22, 2023, CARB adopted amendments to the state's Oil and Gas Methane Regulation, which went into effect on April 1, 2024. 0005-60

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[153] International Panel on Climate Change, *Climate Change 2023 Synthesis Report* (2023), https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_FullVolume.pdf.
[154] World Meteorological Organization, *State of the Global Climate 2022* (Apr. 21, 2020), https://library.wmo.int/viewer/66214/download?file=Statement_2022.pdf&type=pdf&navigator=1.
[155] EPA, Biden-Harris Administration Finalizes Standards to Slash Methane Pollution, Combat Climate Change, Protect Health, and Bolster American Innovation (Dec. 2, 2023), https://www.epa.gov/newsreleases/biden-harris-administration-finalizes-standards-slash-methane-pollution-combat-climate.
[156] International Energy Agency, *Global Methane Tracker 2022*, https://www.iea.org/reports/global-methane-tracker-2023/understanding-methane-emissions.
[157] Carol Rasmussen, *Study Identifies Methane 'Super-Emitters' in Largest US Oilfield*, NASA Jet Propulsion Laboratory (June 2, 2021), https://climate.nasa.gov/news/3087/study-identifies-methane-super-emitters-in-largest-us-oilfield/.
[158] CARB, *Summary Report of the 2020, 2021, and 2023 Airborne Methane Plume Mapping Studies* (Apr. 2024) https://ww2.arb.ca.gov/sites/default/files/2024-04/2020-2021-2023%20Airborne%20Summary%20Report_FINAL.pdf.
[159] *Id*. at 4.
[160] *Id*. at 6.

Unfortunately, CARB's methane rules fail to fully and effectively reduce fugitive emissions from oil and gas operations. For example, the regulations do not prohibit all venting from pneumatic controllers.[161] They also exempt equipment that handles exclusively heavy oil (API gravity less than 20) from "leak detection and repair" (LDAR) practices, providing a loophole for a significant portion of wells.[162] Other exemptions exist for certain separators and tanks,[163] and for annual methane emissions under 10 tons.[164]

0005-60 Cont'd.

Given the obvious shortcomings of the state's regulations, the County should evaluate imposing its own mitigation measures for methane emissions, incorporating the latest leak detection and monitoring technology. It should also consider strict inspection requirements.

D. Dangers of idle and orphan wells

In the SSREIR, the County should evaluate the potential impacts of the potentially thousands of new idle and orphan wells that would result from the Project. New information has surfaced recently showing that idle and orphan wells pose more severe impacts than previously understood.

0005-61

1. Dozens of idle wells have been discovered leaking in Kern County, many in residential neighborhoods.

In recent years, dozens of idle wells have been discovered leaking in Kern County. Many such wells have been identified near homes, some leaking methane in such significant volumes that the air near the source of the leak is literally explosive. In at least one documented instance, an inspector from the Air District measured ambient methane concentrations that equaled or exceeded 50,000 parts per million, levels that one expert deemed to be "an extreme and potentially hazardous event."[165]

Troublingly, there is some uncertainty regarding the extent to which these dangerous leaks are subject to regulatory requirements and emissions limitations. According to the Draft

0005-62

[161] CARB, *Public Hearing to Consider Proposed Amendments to the Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities; Final Statement of Reasons for Rulemaking, Including Summary of Comments and Agency Response Final Statement of Reasons* (June 22, 2023) at 6, https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2023/oilgas2023/fsor1.pdf.
[162] Cal. Code Regs., tit. 17, § 95669.
[163] *Id*., § 95668(a)(2).
[164] *Id*., § 95668(a)(5).
[165] *See* Janet Wilson, *21 Oil Wells Now Found Leaking Methane Near California Homes*, Desert Sun (June 2, 2022), https://www.desertsun.com/story/news/environment/2022/06/02/number-oil-wells-leaking-methane-near-california-homes-climbs-21/7484046001/; Eliza Green, *Inspectors Find 14th Oil Well Leaking Methane in Bakersfield Residential Area*, Bakersfield Californian (May 31, 2022), https://www.bakersfield.com/news/inspectors-find-14th-oil-well-leaking-methane-in-bakersfield-residential-area/article_76b33f18-e127-11ec-98ae-cbb404e66185.html; Drew Costley, *Gas Wells Leak Explosive Levels of Methane in Bakersfield*, AP News (May 25, 2022), https://apnews.com/article/climate-science-health-california-and-environment-8ce6af934dcb5774f00c8e669df23bbb; CalGEM Well Inspections and Repair Updates, (accessed Apr. 11, 2024). https://www.conservation.ca.gov/index/Pages/News/State-Oil-and-Gas-Supervisor-Issues-Statement-on-Two-Bakersfield-Long-Term-Idle-Wells.aspx .

SSREIR, "[f]ugitive VOC emissions from wells are subject to leak detection and repair requirements pursuant to District Rule 4409 and Rule 4401."[166] But District Rule 4409, which regulates volatile organic compound (VOC) emissions from leaking components at light crude oil production facilities, does not apply to facilities used for oil with an API Gravity below 30 degrees.[167] And District Rule 4401, which regulates VOC emissions, only applies to well components that are steam-enhanced.[168] To avoid any confusion and to ensure that all feasible mitigation is in place to reduce air quality impacts, the SSREIR should clarify that District Rules 4409 and 4401 will be applied to *all* oil and gas wells in Kern County. 0005-62 Cont'd.

In addition to the elevated methane concentrations recently measured at leaking wells, there is cause for concern that these wells are also emitting other harmful air pollutants. That's because "[m]ethane from the oil and gas industry comes packaged with other pollutants," including other "VOCs, which are a key ingredient in ground-level ozone (smog); and a number of pollutants known as 'air toxics' – in particular, benzene, toluene, ethylbenzene and xylene."[169] 0005-63

The SSREIR should address the risks associated with non-standard oil and gas well operations and site conditions, including these increasingly prevalent leaking incidents.

2. *Idle well numbers have increased significantly, posing greater impacts and requiring strengthened mitigation measures.*

In August 2023, CalGEM published its Idle Well Program Legislative Report covering idle well data from calendar year 2021.[170] The new information provided in this report shows California's idle well problem has gotten worse over recent years. Whereas 29,292 idle wells were identified in 2018, as of 2021, the total stood at 38,759 idle wells.[171] And the number has continued to climb: as of April 2024, CalGEM's online database currently shows 40,014 idle wells, 27,898 of which are located in Kern County.[172] 0005-64

This figure for Kern County—27,898 idle wells—is more than *double* the number of idle wells accounted for in the Draft SSREIR, which assumes there will be only 11,773 idle wells across the Project Area through 2035.[173] This disparity is consequential because the number of idle wells plays prominently in the Draft SSREIR's estimation of VOC emissions,[174] which

[166] Draft SSREIR at 4.3-113.
[167] Air District Rule 4409, § 3.22; *see also* Draft SSREIR at 4.3-64.
[168] Air District Rule 4401, § 2.0; *see also* Draft SSREIR at 4.3-63.
[169] EPA, *EPA's Actions to Reduce Methane Emissions from the Oil and Natural Gas Industry: Final Rules and Draft Information Collection Request* at 1, https://www.epa.gov/sites/default/files/2016-09/documents/nsps-overview-fs.pdf.
[170] CalGEM, *Idle Well Program Legislative Report: An Overview of Idle and Orphaned Wells in California* (January 1, 2021 to December 31, 2021) (Aug. 2023), https://www.conservation.ca.gov/calgem/Documents/Idle%20Well%20Program%20Report%20for%202021.pdf.
[171] *Id*. at 12.
[172] CalGEM Data Dashboard, (accessed Apr. 10, 2024)
[173] Draft SSREIR at 4.3-116, Table 4.3-21.
[174] *Ibid*.

affects the Draft SSREIR's calculation of the Project's "incremental emissions,"[175] and with it the County's design and implementation of MM 4.3-8 and the County's OG-ERA with the Air District.[176]

0005-64 Cont'd.

Because the latest information on the incidence of idle wells indicates both a significantly greater number and the potential for more serious impacts than previously acknowledged, the SSREIR should disclose the latest figures, reevaluate its emissions calculations, and adjust MM 4.3-8, the OG-ERA, and potentially other mitigation measure to ensure that all feasible mitigation has been instituted, as CEQA requires.

3. Orphan well numbers have exploded, and the cost to remediate such wells has increased significantly.

Like idle wells, the number of orphan wells is also increasing. As of the certification date for the SREIR and the County's previous analyses, CalGEM had yet to complete its review of records to determine the number of orphan wells. But new information has come to light, and CalGEM now acknowledges there are over 5,300 orphan or likely orphan wells in California.[177] This number is likely to increase further as CalGEM confirms that many "deserted" wells have no solvent operators.[178]

0005-65

In 2020, the California Council on Science and Technology (CCST) estimated California's onshore oil and gas well remediation to cost roughly $9.2 billion,[179] with the average cost to plug a well estimated to be $68,000 per well.[180]

Recently, more robust calculations have significantly increased the estimated cost of remediation. For example, a 2023 report by Carbon Tracker estimated it may cost up to $21.5 billion to remediate all onshore wells in California.[181] CalGEM's most recent cost estimates for individual well remediation similarly exceed CCST's estimates; according to CalGEM, the average cost per well is $111,000.[182] Carbon Tracker's report highlights the risk that large numbers of idle wells may remain unplugged without further mitigation because operators will not generate enough future cash flow to cover the costs of plugging and abandonment.[183]

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[175] Draft SSREIR at 4.3-128 to 4.3-134 (Tables 4.3-29, 4.3-30, 4.3-31, and 4.3-32).
[176] Draft SSREIR at 4.3-133 ("Table 4.3-32 provides the basis for determining the in-lieu fees paid by applicants under the OG-ERA").
[177] CalGEM, *State Abandonment Draft Expenditure Plan* (July 2023) at 7, https://www.conservation.ca.gov/calgem/Documents/state_abandonment_expenditure_plan_7-17-2023.pdf.
[178] *Ibid*.
[179] California Council on Science and Technology, *Orphan Wells in California: An Initial Assessment of the State's Potential Liabilities to Plug and Decommission Orphan Oil and Gas Wells* (Jan. 23, 2020) at 27-28 (AR198625-26).
[180] *Id*. at 21 (AR198619).
[181] Dwayne Purvis, *There Will Be Blood: Decommissioning California's Oilfields* (May 2023) (There Will Be Blood) at 5, https://carbontracker.org/reports/there-will-be-blood/.
[182] Legislative Analyst Office, *The 2022-2023 Budget: Oil Well Abandonment and Remediation* (Jan. 31, 2022) at 1, https://lao.ca.gov/reports/2022/4508/oil-well-abandonment-remediation-013122.pdf.
[183] Purvis, *There Will Be Blood* at 28-35.

Accordingly, the SSREIR should consider the impacts of idle and orphan wells in its analysis and evaluate mitigation measures to address the burgeoning orphan well crisis, including requiring operators to plug a minimum number of idle wells each year. Such a mitigation measure is feasible and will help mitigate the potential impacts from both idle and orphan wells. 0005-66

The SSREIR should also evaluate the possibility of imposing on all new wells a bonding requirement for the full cost of plugging to ensure that operators set aside enough financial resources to cover remediation. The County should consider such a mitigation measure because state bonding requirements are inadequate.[184] 0005-67

E. The County should reconsider the Ordinance in light of AB 3233.

In 2024, the state enacted Assembly Bill 3233, which added section 3106.1 to the Public Resources Code to resolve any confusion about the balance of authority between state and local governments when regulating oil and gas activity. Section 3106.1 restores local control over oil and gas production methods and practices, and affirms that local governments may "impose regulations, limits, or prohibitions on oil and gas operations or development that are more protective of public health, the climate, or the environment than those prescribed by state law, regulation, or order."[185] The SSREIR marks the first opportunity for the County to draft a local ordinance with these broad powers under the new law. 0005-68

The County can and should consider imposing stricter and more protective mitigation measures than those imposed by CalGEM. For example, as noted above, CalGEM's bond requirements do not cover the full cost of remediation for operators. The County should require operators to submit a bond to the County for an amount sufficient to cover the full cost of well site remediation. 0005-69

CalGEM also has no deadline to plug idle wells. The County should include a deadline for operators to plug idle wells. 0005-70

The County should also consider feasible alternatives to the project that would be permissible under AB 3233. For example, CalGEM allows injection pressures above the fracture gradient when conducting steam injection. The SSREIR should consider an alternative project that prohibits injection above the fracture gradient. 0005-71

The state also does not prohibit the use of open and unlined pits as a disposal method for oil industry wastewater. The County should consider alternatives to the Ordinance that would prohibit these dangerous practices. 0005-72

[184] *Id*. at 26.
[185] Pub. Resources Code, § 3106.1(a).

F. CalGEM banned permits for all well stimulation treatments.

"Well Stimulation Treatment" including "Hydraulic Fracturing" is identified in the Draft SSREIR as a component of Project activity that is authorized by the Ordinance and purportedly evaluated by the County in its CEQA review.[186] 0005-73

The Draft SSREIR is inaccurate because, effective October 1, 2024, CalGEM amended its regulations to state that "[t]he Division, including the supervisor and district deputies, will not approve applications for permits to conduct well stimulation treatments."[187] The prohibition against well stimulation treatments is broad, as CalGEM regulations define "Well stimulation treatment" as any "treatment of a well designed to enhance oil and gas production or recovery by increasing the permeability of the formation."[188]

The Draft SSREIR must be updated to acknowledge that CalGEM has banned well stimulation treatments. Further, the County must make corresponding updates to its analysis of alternatives and impacts as well as its evaluation of all feasible mitigation measures.

G. SB 1314 banned the use of CO_2 for enhanced oil recovery.

"Enhanced Oil Recovery Activities" including "Gas Injection" are identified in the Draft SSREIR as a component of Project activity that is authorized by the Ordinance and purportedly evaluated by the County in its CEQA review.[189] With respect to gas injection, the Draft SSREIR states that "[e]xamples of immiscible gases that could be used in [Project] operations include natural gas, nitrogen, or CO_2."[190] 0005-74

The Draft SSREIR is inaccurate because the legislature enacted Senate Bill 1314 in 2022. SB 1314 added section 3132 to the Public Resources Code which states, in pertinent part: "an operator shall not inject a concentrated carbon dioxide fluid produced by a carbon dioxide capture project or carbon dioxide capture and sequestration project into a Class II well for purposes of enhanced oil recovery, including the facilitation of enhanced oil recovery from another well."[191]

The Draft SSREIR must be updated to acknowledge that SB 1314 has effectively banned all enhanced oil recovery through CO_2 injection in California. Further, the County must make corresponding updates to its analysis of alternatives and impacts as well as its evaluation of all feasible mitigation measures.

[186] Draft SSREIR at 3-62 to 3-65.
[187] Cal. Code Regs., tit. 14, § 1780(d).
[188] Cal. Code Regs., tit. 14, § 1761(a)(1).
[189] Draft SSREIR at 3-73 to 3-75.
[190] Draft SSREIR at 3-74 to 3-75
[191] Pub. Resources Code, § 3132(b).

VII. Conclusion

For the reasons set forth above, we urge the County to institute the above-described measures to allow Spanish-speaking residents to participate meaningfully in the public process, to decline certification of a flawed CEQA analysis, and ultimately, to reject the Ordinance itself. 0005-75

We reserve the right to identify new issues, provide additional information, and propose additional mitigation measures during the County's ongoing decision-making process for the Ordinance.

Sincerely,

Colin O'Brien
Gabriel Greif
Earthjustice

Hollin Kretzmann
Talia Nimmer
Center for Biological Diversity

Kayla Karimi
Natalia Ospina
Center on Race, Poverty & the Environment

Diana Mireles
Comité Progreso de Lamont

Anabel Marquez
Committee for a Better Shafter

Estela Escoto
Committee for a Better Arvin

Paulina Torres
Natural Resources Defense Council

Elly Benson
Sierra Club

Comment 5
Earthjustice et al.

0005-1

This comment regarding Spanish speakers' opportunity to comment is introductory. Please see responses to Comments 0005-4 and 0005-5.

0005-2

The commenters state that the County should reconsider the No Project Alternative and decline to adopt the Revised Ordinance (2025 A) establishing a streamlined local oil and gas permitting program. Instead, the commenters suggest that the County should require individual site-specific impact reviews with additional measures to protect local communities. This comment does not relate to the CEQA process. The commenters' opinion is noted for the record and will be provided to the decision-makers.

Regarding the No Project Alternative, please see Draft SSREIR Section 6.7.1, Alternative 1 – "No Project" Alternative. If the No Project Alternative were adopted, none of the Project's proposed development standards or conditions would be implemented in the county on a consistent basis for all new oil and gas wells in the future. Without implementation of the Project's development standards and conditions for oil and gas activities, the No Project Alternative would have greater environmental impacts than the Project in most impact categories. In addition, as discussed in Draft SSREIR Section 6.7.1, the No Project Alternative would not achieve most of the Project objectives.

Regarding the adequacy of the Project's approach to streamlined ministerial permitting for CEQA purposes, please see 2015 EIR, Section 7.2.1, Global Responses, 1: Ministerial Permit Process, pp. 7-94–100. Since individual oil and gas projects seeking ministerial approval would be required to comply with every applicable mitigation requirement in the Mitigation Monitoring and Reporting Program, in exchange for streamlined approval, most projects would be required to provide mitigation for some impacts that they don't actually cause. In contrast, oil and gas projects subject to an individual site-specific approval process can only be required to provide mitigation for environmental impacts when there is evidence such impacts are likely to occur. In this sense, the ministerial approval process in the Revised Ordinance (2025 A) is environmentally superior to the typical individual discretionary approval process, because its comprehensive mitigation program applies even when on-the-ground impacts may not occur.

0005-3

The commenters emphasize the importance of addressing community concerns by thoroughly evaluating the impacts of increased oil and gas development and mitigating those impacts to the fullest extent feasible under CEQA. The commenters also state that the County's previous environmental reviews have failed to comply with CEQA. This comment does not state a specific concern related to the adequacy of the SSREIR and therefore does not require a detailed response. The comment is noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration.

0005-4

The Commenters note that approximately one in six Kern County residents speak Spanish with limited or no English proficiency and requests that the County provide Spanish translation and interpretation of CEQA notices, portions of the SSREIR, and public meeting presentations. Since the commenters do not dispute that neither CEQA nor the CEQA Guidelines require California lead agencies to translate notices or all or part of environmental review documents into non-English languages, or to provide translation services at meetings, this comment does not relate to the CEQA process. The comment is noted for the record and will be provided to the decision-makers.

Despite not being required to do so under CEQA, the County provided Spanish translation services at the April 3, 2024, scoping meeting for the SSREIR NOP and at the April 15, 2025, virtual workshop on the Draft SSRER and will provide Spanish translation services at the Planning Commission and Board of Supervisors hearings to consider the Final SSREIR. These translation services include live simultaneous interpretation and English translation of comments by Spanish speakers who request to provide verbal public comments. The virtual workshop also included closed captioning of the presentation. In addition, the presentations indicated that written comments could be submitted in any language.

There is no express requirement in CEQA for translation services or translation of CEQA notices and documents, and a mandatory requirement cannot be implied, because CEQA cannot be interpreted "in a manner which imposes procedural or substantive requirements beyond those explicitly stated" therein. CEQA § 21083.1. In decisions on the 2015 EIR and 2020 SREIR, the Court of Appeal confirmed that the County was not required to translate public notices or all or part of an EIR into Spanish, or to provide Spanish-language interpreters at public meetings related to an EIR. *King & Gardiner Farms, LLC v. County of Kern* (2020) Case No. F077656, Slip Opinion at 122-126 (Cal. Ct. App. 5th Dist. Feb. 25, 2020), and *V Lions Farming LLC v. County of Kern* (2024) Case Nos. F084763, F085102, F085220, Slip Opinion at 97-105 (Cal. Ct. App. 5th Dist. March 7, 2024). As the commenters acknowledge, in the latter opinion, the Court of Appeal concluded that translation was not legally mandatory and that the County has discretion to determine whether and what translation services it may choose to provide. In addition, the Court of Appeal found that the County's decision to provide translation services at meetings and workshops, but not to translate notices or portions of the EIR, was not an abuse of discretion.

The commenters also assert that the County should provide the same translation services and translated materials that were provided for joint live and virtual workshops held by the County and the U.S. Environmental Protection Agency (EPA) for the Carbon TerraVault I project. Although the County and EPA held joint public workshops on the Carbon TerraVault 1 project for convenience, the EPA's consideration of the Underground Injection Control Permit for that project was subject to federal requirements and policies and was a separate proceeding from the consideration of the EIR for that project, subject to CEQA. Since CEQA does not require translation, the County is not required to provide the same translation services and translated materials in CEQA proceedings as those provided in the joint public workshops for Carbon TerraVault 1 where translation of documents was provided as a courtesy for compliance with EPA policies.

The legislative history of several unsuccessful bills reflects the State Legislature's recognition that statutory changes would be necessary to add a translation mandate to CEQA. In Senate Bill (SB) 55 (2019-2020 Reg.

Sess.), legislative findings expressly acknowledged a "need to consider additional future legislation to require the translation of notices and other documents prepared pursuant to CEQA. . . ." SB 950 (2019-2020 Reg. Sess.) would have required the Office of Planning and Research to develop requirements for translation of certain CEQA "notices and other documents" into non-English languages spoken by a "substantial number of people" served by the lead agency. SB 55 and SB 950 both failed to pass. In addition, two subsequent bills that passed were vetoed by the Governor: Assembly Bill (AB) 543 (2013-2014 Reg. Sess.), which would have required the Office of Planning and Research to develop guidelines for determining when a lead agency must translate CEQA notices into non-English languages, and AB 2447 (2017-2018 Reg. Sess.), which would have required translation of certain CEQA notices into languages prevalent in the area where a project is located.

A senate committee report discussed the problems with adding a translation requirement as proposed in SB 950 (Senate Committee on Environmental Quality 2020). The committee report raised multiple concerns, including the risk of inaccurately translating terms of art and technical scientific terms in factual statements and analysis; the cost to public agencies of up to $300 per page translated; logistic issues, including the need to hire or contract with translators proficient both in the relevant languages and in CEQA and the environmental factors analyzed under CEQA; and the risk of creating new civil liabilities against lead agencies for inaccurate translation. These concerns are applicable here, where a $300 per page cost would be exorbitant, and the complex and highly technical SSREIR would be vulnerable to mistranslation and potential liability.

In 2024, the Little Hoover Commission on CEQA reform discussed the problems with proposals to add a translation requirement to CEQA (Little Hoover Commission 2024). As the Little Hoover Commission explained:

> Currently there is no requirement for the translation of CEQA documents. . . . [W]e recognize the substantial financial cost of translating CEQA documents, some of which stretch for hundreds or even thousands of pages, often with dense scientific language and concepts. Indeed, translation of entire documents may in some cases serve little purpose in achieving broader public awareness, since the complexity of CEQA cases can render the documents indecipherable to even the most educated lay reader, regardless of language. Additionally, opponents of past proposals for translation requirements have expressed a concern that claims of inaccurate translation would raise a new avenue of legal action against a project. Last, any requirement for translation would have to address detailed questions such as how many languages a document should be translated into, and what standard of translation is acceptable. (Little Hoover Commission 2024, p. 19).

While the Little Hoover Commission recommended further study of the issue, to date there remains no CEQA requirement for translation. The concerns identified by the Senate Committee Report and the Little Hoover Commission Report also support the County's reasonable determination not to voluntarily adopt a policy of translating CEQA notices and documents or parts of documents.

County Staff determines whether a translation is needed for each specific project. Evidence was reviewed about population, demographics and poverty levels in Kern County and the Project Area. See SREIR (October 2020), Vol. 1, p. 6-39, and Vol. 2, Response to Comment 10-3. By comparing poverty and demographic census tract data from Tier 1 lands to non-Tier 1 lands and Kern County as a whole, the SREIR

(October 2020) provides a localized comparison of how future oil and gas activities may impact disadvantaged communities in various parts of the Project Area. The results indicate that the Project is unlikely to have disproportionate potential environmental impacts on disadvantaged, Hispanic, or low-income populations. According to the SREIR's annual well forecasts, the vast majority (90.3 percent) of oil and gas wells permitted under the Project are projected to be located in Tier 1 lands. See SREIR (October 2020), Vol. 1, at 3-38–3-40, 6-39. Tables 6-1 and 6-2 of the SREIR (October 2020) summarize 2015 and 2018 American Community Survey (ACS) census tract data for population, demographic, and poverty levels in (1) in Tier 1 lands, (2) non-Tier 1 lands, and (3) Kern County as a whole. The 2018 ACS data show that the percentage of the population identified as white is higher in Tier 1 census tracts (46.1 percent) than in Kern County as a whole (34.8 percent) and in non-Tier 1 census tracts (31.5 percent). The percentage of the population identified as Hispanic is lower in Tier 1 census tracts (44.0 percent) than in Kern County as a whole (52.8 percent) and in non-Tier 1 census tracts (55.3 percent). See SREIR (October 2020), Vol. 1, p. 6-41. The percentage of the population identified as below the poverty level in Tier 1 census tracts (17.4 percent) is lower than in Kern County as a whole (22.0 percent) and in non-Tier 1 census tracts (23.3 percent). See SREIR (October 2020), Vol. 1, p. 6-42. The vast majority of wells proposed under the Project (i.e., projected in Tier 1 lands) are therefore anticipated to be located in areas with a higher proportion of white residents and a lower poverty rate, when compared to non-Tier 1 lands and the County as a whole. Thus, oil and gas activities permitted under the Project are unlikely to be spatially distributed in a manner that disproportionately focuses potential environmental impacts on Hispanic or low-income populations. See SREIR (October 2020), Vol. 1, p. 6-42.

0005-5

The comment is noted for the record and will be provided to the decision-makers.

0005-6

The comment notes the discussion of SB 1137 in the SSREIR and agrees with the inclusion in the Ordinance of the definition of "sensitive receptors" from SB 1137. The comment is noted.

0005-7

The comment objects to exclusion from permitting and regulation under the Ordinance of limited oil and gas activities that SB 1137 allows within the 3,200-foot Health Protection Zone (HPZ) setback from sensitive receptors. This comment is introductory, and no response is necessary. Please see response to Comment 0005-9.

0005-8

The commenters agree that the 2,500-Foot Setback Alternative was appropriately eliminated from the SSREIR because it has been superseded by the 3,200-foot setback established by state law in SB 1137 (see Draft SSREIR, Sections 6.6.8 and 6.7.7, 2,500-Foot Setback Alternative, pp. 6-23, 37–49). The commenters also concur that the 3,200-foot setback is supported by evidence in the record, including legislative findings, legislative history and an advisory panel report (described in the Draft SSREIR, Section 4.3, Air Quality, pp. 4.3-153–154), as well as being required by state law. These comments are noted.

Nevertheless, the commenters assert that the SSREIR should evaluate a 3,200-foot or greater setback or explain why such setbacks have not been considered. To the extent that the commenters advocate that the County should consider a 3,200-foot or greater setback as policy matter, this is not a comment related to the CEQA process. The comment is noted for the record and will be provided to the decision-makers.

The comment does not involve one of the three issues that the Court of Appeal required the County to address before considering certification of the SSREIR: use of agricultural conservation easements as mitigation, the multi-well health risk assessment, and water supply impact analysis. *V Lions Farming LLC v. County of Kern* (2024) Case Nos. F084763, F085102, F085220, Slip Opin. at 106 (Cal. Ct. App. 5th Dist. March 7, 2024). The commenters do not contend that increasing the previous Ordinance setbacks of 210 feet from sensitive receptors, and 300 feet from schools, to the 3,200-foot setback required by SB 1137 would result in new or substantially more severe environmental impacts that would require supplemental CEQA review. See CEQA Guidelines § 15162. Regarding alternatives, supplemental CEQA review is required if new information of substantial importance shows that an alternative considerably different from those analyzed in the prior EIR would substantially reduce significant impacts, but the project proponents decline to adopt the alternative (CEQA Guidelines § 15162(a)(3)(D)).

The commenters first assert that the County should adopt its own 3,200-foot setback corresponding to the HPZ setback distance in SB 1137. The County's redundant adoption of a 3,200-foot setback in addition to the identical setback established by state law would not substantially reduce significant impacts of the Project. SB 1137 is already in effect and prohibits drilling new wells within the HPZ independent of the Project. Reductions in Project impacts attributable to SB 1137's 3,200-foot setback, compared to the 210-foot setback (300 feet for schools) previously provided in the Ordinance, are already in place as the result of state law. In addition, as noted above, the commenters concur that the 3,200-foot setback is supported by evidence in the record. Thus, it was not necessary to consider a CEQA alternative providing a 3,200-foot setback, which would be redundant with state law and unnecessary to reduce Project impacts given that the state law is already in effect.

The commenters further assert that the SSREIR should evaluate a setback alternative greater than 3,200 feet. The SEIR previously evaluated a 2,500 Foot Setback Alternative and reached a conclusion that continues to apply: excessive setback conditions or other restrictions precluding drilling would subject the County to serious allegations of takings liability, along with the risk of protracted litigation, by preventing mineral rights holders from accessing their minerals within the setback distance. "Under the law of this state the landowner has a property right in oil and gas beneath the surface, not in the nature of an absolute title to the oil and gas in place, but as an exclusive right to drill upon his property for these substances." *Bernstein v. Bush* (1947) 29 Cal.2d 773, 778. While localities can restrict oil drilling by means of reasonable zoning regulations, land use restrictions must be reasonable in light of the need for regulations to address public safety issues. As the California Supreme Court stated, "[w]hile the police power is very broad in concept, it is not without restrictions in relation to the taking or damaging of property. . . . When it passes beyond proper bounds in its invasion of property rights, it in effect comes within the purview of the law of eminent domain and its exercise requires compensation." *House v. Los Angeles County Flood Control Dist.* (1944) 25 Cal.2d 384. See SREIR, pp. 6-42–45. The same considerations apply to adoption of a County setback greater than the distance mandated by state law and supported by the record. In this functional sense, a greater-than-3,200-foot setback alternative is not "considerably different" from the 2,500-foot setback alternative previously analyzed, per CEQA Guidelines § 15162(a)(3)(D).

The commenters state that, in comments on the 2,500 Foot Setback Alternative in the SREIR, they disagreed with the analysis of takings liability. The comment is noted. The County considered and responded to the commenters' previous comments in the Final SREIR, Responses to Comments 0009-41, 0009-58, 0009-60, and 0009-83–88. When the commenters challenged the Final SREIR in litigation, they did not challenge the rejection of the 2,500 Foot Setback Alternative on takings or other grounds, or argue for a setback greater than 2,500 (or 3,200) feet. Preparation of the SSREIR to address the limited issues identified by the Court of Appeal "is not an occasion to revisit environmental concerns laid to rest in the original analysis." *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 949. CEQA is designed to avoid "endless rounds of revision and recirculation of EIR[s]." *Silverado Modjeska Recreation and Park District v. County of Orange* (2011) 197 Cal.App.4th 282, 303.

0005-9

The commenters state that the County should amend the proposed Revised Ordinance (2025 A) to apply to the limited oil and gas activities that SB 1137 allows within the 3,200-foot HPZ. The commenters assert that the SSREIR fails as an informational document because it does not explain the exclusion of the SB 1137 exceptions from County permitting, and because (the commenters assert) this exclusion is inconsistent with one of the Project's objectives. The commenters further suggest that the Revised Ordinance (2025 A) could specify that any new wells authorized by the California Geologic Energy Management Division (CalGEM) for drilling within the HPZ must implement all mitigation and monitoring requirements set forth in the SSREIR to the extent not otherwise adopted or superseded by stricter mitigation requirements imposed by CalGEM.

The County has discretion to determine the scope of regulatory provisions contained in its ordinances. To the extent that the commenters advocate that, as a policy matter, the County should exercise its discretion to amend the Revised Ordinance (2025 A) to provide for County regulation of oil and gas activities within the HPZ that CalGEM may approve under the SB 1137 exceptions, and/or to apply the SSREIR's mitigation measures to such activities, this comment does not relate to the CEQA process. Any wells remaining inside the HPZ zone that were permitted through the Kern County Oil and Gas ordinance since 2016 are still under the jurisdiction of the Kern County Planning and Natural Resources Department but will be subject to the regulation of CalGEM for approval of Notices of Intent (NOIs) and implementation of additional requirements under SB 1137 when they are implemented. The comment is noted for the record and will be provided to the decision-makers.

The scope of the Ordinance, as directed by the Board of Supervisors in its direction to County staff on January 22, 2013, was to include updated procedures, development standards, and conditions for future oil and gas exploration, development, and production activities in the County, to address requests from oil and gas industry associations and concerns from farmers about compatibility of oil and gas with agricultural land use, and to provide enhanced environmental protection and mitigation measures through the CEQA process. The state's prohibition of new production wells in the HPZ and the limited exceptions allowed by the state in the HPZ fall outside the purpose and scope of the Ordinance.

As explained in the Draft SSREIR, pp. 3-42 and 4.3-56–57, SB 1137 contains three limited exceptions to the prohibition on CalGEM approval of NOIs for drilling within the HPZ: (i) to prevent or respond to a threat to public health, safety, or the environment; (ii) to comply with a court order finding that denying

approval would amount to a taking of property or otherwise requiring approval of an NOI; or (iii) to plug and abandon or reabandon a well, including an intercept well necessary to plug and abandon or reabandon a well. Thus, the state has prohibited drilling new wells in the HPZ with limited exceptions that CalGEM must evaluate as meeting the requirements of the statute. See SB 1137, Public Resources Code § 3281(b) (sensitive receptor inventory and map submitted to CalGEM); 14 California Code of Regulations (CCR) §§ 1765.3–1765.4 (information to be submitted to CalGEM) and 1756.9 (CalGEM determination that a location is not within an HPZ). These decisions are appropriately made by CalGEM in its role as the agency with statutory responsibility and expertise, rather than the County as an agency with general land use authority. While the County has discretion to impose additional land use regulations, the County is not required by SB 1137 or otherwise obligated to assume a role in this new, untested, and unimplemented regulatory regime.

Accordingly, the Revised Ordinance (2025 A) provides that activities within the HPZ in the three exception categories must be authorized by the state and the County will not issue Oil and Gas Conformity Reviews, Minor Activity Reviews, or Conditional Use Permits for such activities. See Draft SSREIR, Project Description, Attachment A, Zoning Ordinance Amendments, Sections 19.98.040 (Oil and Gas Conformity Review and Minor Activity Review), 19.98.050 (Conditional Use Permits), and 19.98.070 (no County permit required for oil and gas activities permitted in the State-defined HPZ authorized by CalGEM permit). Since oil and gas activities within the HPZ under SB 1137 exceptions are not part of the Project as described in the Project Description, they are not covered for compliance with CEQA in the SSREIR, and mitigation measures adopted by the SSREIR for oil and gas activities would not apply to any activities within the HPZ approved by CalGEM, with the exception of existing wells already operating or idle that have obtained a Kern County Oil and Gas Conformity Review for ongoing operations (Draft SSREIR p. 4.3-154). Any work on the well to prevent or respond to a threat to public health, safety, or the environment as permitted by SB 1137, however, will require only a CalGEM permit and environmental review under CEQA by CalGEM as lead agency. Mitigation and monitoring for significant impacts of the Project, as provided in the SSREIR, are not required for activities that are not subject to County approval under the Revised Ordinance (2025 A).

A Draft EIR must be revised and recirculated if it "was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (CEQA Guidelines § 15088.5(a)(4)). The commenters do not explain why they believe it was essential, to enable meaningful public review of the SSREIR, to include detailed discussion of the basis for one aspect of the Ordinance scope. The commenters do provide extensive comments regarding the SSREIR's treatment of SB 1137 and their recommendation that the County amend the Revised Ordinance (2025 A) to apply all mitigation and monitoring requirements set forth in the SSREIR to oil and gas activities within the HPZ approved by CalGEM. Moreover, the commenters state that the narrowness of the SB 1137 exceptions means that future oil and gas drilling within the 3,200-foot setback presumably will be uncommon, which suggests that this is not a major aspect of the Ordinance scope.

The commenters' claim of inconsistency with one of the Project objectives is incorrect. The commenters cite the first of the County's Project objectives, which include:

> Update the County's Zoning Ordinance to create a local permit for oil and gas activities so that County development standards and protective mitigation measures for the purpose of reducing or

> eliminating potential significant adverse environmental impacts, to the extent feasible, of future oil and gas activities., thereby, ensuring that current County ordinances implement the Board of Supervisor's policies to protect the health, safety, and general welfare of communities, residents, and visitors (Draft SSREIR, Section 3.6.1, County Objectives, p. 3-90).

The general language of the objective does not obligate the County to include every activity related to oil and gas within the scope of the streamlined local permitting program created by the Revised Ordinance (2025 A), or to extend the scope of its permitting program to oil and gas activities within the HPZ, an area expressly governed by SB 1137 and subject to oversight by CalGEM. For example, cogeneration facilities are not included in the permitting program and require a separate CUP and CEQA review (Draft SSREIR, p. 3-57). More broadly, the general objective of providing a streamlined local permitting program for oil and gas would not be advanced by involving the County in application of the novel and untested regulatory regime in SB 1137.

For activities that SB 1137 allows within the HPZ, applicants must submit NOIs to CalGEM, which will be responsible for CEQA compliance for such approvals (Draft SSREIR, p. 3-42). The commenters speculate that CalGEM may not impose adequately protective requirements. However, there is no reason to expect that CalGEM will fail in its responsibilities under CEQA or SB 1137. The commenters concede that, in serving as CEQA lead agency for approvals pursuant to any of SB 1137's exceptions, "CalGEM presumably will fully abide by CEQA's requirements." As noted in the Draft SSREIR (p. 4.3-56), SB 1137 and CalGEM's implementing regulations also impose numerous new protective requirements on any oil and gas activities that CalGEM approves within the HPZ. See SB 1137, Public Resources Code §§ 3281(b) – (d), 3281.5 -3291, and 14 CCR §§ 1765–1765.10.

The commenters also assert that the County should apply the SSREIR's mitigation and monitoring requirements to continuation of existing operations at wells that have already been drilled within the HPZ, which SB 1137 allows to continue operation. Continued existing operations at wells that have already been drilled constitute baseline conditions. The environmental effects of baseline conditions are part of the environmental setting, not impacts of the Project (CEQA Guidelines §§ 15125, 15126.2(a), 15126.6). Please see also 2015 EIR Section 7.2.1, Global Response 7: Baseline: Legacy Conditions, pp. 7-132–136.

0005-10

The comment objects to the Draft SSREIR's statement that "[i]n the event that future changes in State law allow drilling within the HPZ, supplemental CEQA review . . . may be required" and contends that "may" must be replaced with "must." The statement in the Draft SSREIR is accurate. Whether supplemental review may be required at a future date will be determined pursuant to CEQA Guidelines section 15162 based on relevant project changes, changed circumstances, or new information. As the ordinance does not cover the HPZ area, any drilling within the HPZ will not be the responsibility of the County but of CalGEM. Any changes would be subject to the action of the State Legislature, and the County has no authority to change State law. If the HPZ area is expanded by the State Legislature, then the increased setback will apply directly and no further action needs to be evaluated. If the HPZ area is reduced, then the Legislature will make that determination based on information then available, that would be utilized in determining the applicability of the Ordinance to the area removed from the HPZ and the appropriate level of CEQA review

if the County will be permitting in that removed area. It is speculative for the County to determine the appropriate environmental review for such changes at this time.

The comment asserts that the County has not complied with the Court of Appeal's directive to reevaluate the risks of drilling at distances from 210 to approximately 1,000 feet. The comment overstates the Court of Appeal's directive, which was limited to the health risk assessment for drilling multiple wells. See*V Lions Farming, LLC v. County of Kern*, No. F084763, Slip Opinion (Cal. Ct. App. Mar. 7, 2024) pp. 65–66. As explained in the Draft SSREIR (pp. 4.3-159–160), the Multi-Well Health Risk Assessment (HRA) model assumed that up to 48 wells would be drilled in concentric circles around a sensitive receptor that was assumed to be surrounded by a 300- by 300-meter fence. The Court of Appeal determined that including this fence assumption in the Multi-Well HRA model was equivalent to assuming a setback of 300 meters (984.26 feet) between the closest well and the sensitive receptor. The Court of Appeal concluded that the Multi-Well HRA was inadequate because it did not meaningfully explain the risks to the public resulting from wells drilled beyond the Ordinance's setback of 210 feet from sensitive receptors (300 feet from schools), but inside the 984-foot setback assumed in the Multi-Well HRA model. As a result, the Multi-Well HRA did not evaluate cancer risk from multiple permissible wells within an area extending from 210 feet (or 300 feet for schools) to 984.26 feet, referred to by the Court of Appeal as the "excluded zone"—that is, an area excluded from the modeling analysis.

As remedy for this CEQA violation, the Court of Appeal directed (among other things) that the County not present an ordinance streamlining oil and gas permitting to the Board of Supervisors for approval until the County has "prepared a revised environmental impact report that corrects the CEQA violations relating to… the assessment of cancer risks associated with the drilling of multiple wells near sensitive receptors. . . ." *V Lions Farming* at 106. The Ordinance setback distances that the Court of Appeal considered have been superseded by the 3,200-foot setback in SB 1137. Accordingly, placing new wells within the zone from 210 feet to 984.25 feet, which the Court of Appeal found was improperly omitted from the Multi-Well HRA modeling, is prohibited by State law. As amended, Revised Ordinance (2025(A)), Section 19.98.060.A, provides that "Setbacks from sensitive receptors shall be as required by California State Law." Thus, compliance with SB 1137, as required by the Revised Ordinance (2025 A), corrects the CEQA defect found by the Court of Appeal by eliminating wells within the model's "excluded zone."

The commenters assert that, should the Legislature alter the 3,200-foot setback in the future, an amendment to the Ordinance would be required. As amended, Revised Ordinance (2025 A), Section 19.98.060.A, provides that "Setbacks from sensitive receptors shall be as required by California State Law," which would still apply if the setback distance in State law were altered. However, it is acknowledged that if the HPZ area is reduced, then the Legislature will make that determination based on information then available, that would be utilized in determining the applicability of the Ordinance to the area removed from the HPZ and the appropriate level of CEQA review if the County will be permitting in that removed area. Any change to the Ordinance will require a full public process of consideration by the Planning Commission and final consideration and action by the Board of Supervisors, providing multiple opportunities for public comment and participation.

0005-11

The commenters object to the Draft SSREIR's statement that "the overall degree of adverse impact is less (except for GHGs) due to the implementation of SB 1137 setback provisions in the HPZs." (Draft SSREIR, p. 1-25). The comment contends that this is an unsupported and conclusory assertion, in general and for greenhouse gases (GHGs) in particular. However, an overall reduction in adverse effects from oil and gas drilling is the premise of SB 1137, which contains the following legislative findings:

> The Legislature finds and declares all of the following:
>
> (a) In addition to increasing impacts of climate change, a growing body of research shows direct health impacts from proximity to oil extraction.
>
> (b) These impacts are disproportionately impacting Black, indigenous, and people of color in California, who are most likely to live in close proximity to oil extraction activities and who are the most vulnerable to the negative impacts of climate change.
>
> (c) Proximity to oil and gas extraction sites pose significant health risks, especially due to increased air pollution.
>
> (d) Studies have shown evidence of harm at distances less than one kilometer, which is approximately 3,200 feet.
>
> (e) Further assistance must be provided to frontline communities that have been most polluted by the fossil fuel industry by cleaning up pollution, remediating negative health impacts, and building resilient infrastructure to prepare for the unavoidable impacts of climate change (SB 1137, Section 1).

See also Draft SSREIR, pp. 4.3-153–4.3-154, discussing legislative history and an Advisory Panel Report. The commenters concur with these findings as supportive of the 3,200-foot setback. See response to Comment 0005-8.

Overall, localized impacts from the proximity of oil and gas activities to sensitive receptors are reasonably expected to be reduced by increasing the distance to sensitive receptors, as a result of implementing the HPZ provisions of SB 1137 and the restrictions on drilling of new wells outside very limited exceptions. By contrast, climate change impacts from accumulation of GHG in the atmosphere occur on a global rather than a local scale. Accordingly, it is reasonable to conclude that GHG impacts are an exception to the general pattern that the overall degree of adverse impacts is reduced by implementing the HPZ.

The SSREIR also contains specific analyses of the consequences of SB 1137 for Project impacts in the categories of Air Quality (Draft SSREIR, pp. 4.3-153–155, 159–160), Aesthetics and Visual Resources (p. 4.18-3, Mitigation Measure (MM) 4.1-4 revised to delete screening for new well pump sites within 500 feet of any dwelling, since new wells cannot be drilled within the HPZ) and Noise (pp. 4.18-5–7, 11, MM 4.12-1 revised to incorporate the SB 1137 definition of sensitive receptors; MM 4.12-2 revised to delete noise setbacks at distances from 210 to 300 feet from sensitive receptors, since new wells cannot be drilled within the HPZ; and significance conclusion revised to reflect elimination of noise impacts for operations within 300 feet of sensitive receptors).

The commenters assert that the SSREIR should be amended to address the possibility that SB 1137's establishment of HPZs could result in the intensification of drilling in certain other areas within the Project Area, with heightened impacts. The effects of SB 1137 are the result of state law, not of a discretionary decision by the County, and do not constitute impacts of the Project. Section 19.98.040(c) of the Ordinance specifically limits the total numbers of wells to 2,697 new wells per year. Spacing of wells is a function of standard engineering and geotechnical requirements. Wells cannot be placed directly on top of each other or touching well pad to well pad or otherwise intensified beyond the already analyzed placement. The fact that certain areas are now off limits to new wells and the implementation of the 3,200-foot setback actually may lead to fewer wells being drilled within the total Project Area, thereby potentially reducing the impacts.

0005-12

The comment states that the County must accurately analyze and fully mitigate air quality impacts from the Project and notes that San Joaquin Valley (SJV) is failing to attain the National Ambient Air Quality Standard (NAAQS) for particulate matter up to 2.5 microns in diameter ($PM_{2.5}$) and ozone. The Draft SSREIR describes the existing air quality in the Project vicinity on pages 4.3-4 through 4.3-28. The current non-attainment status of the SJV for $PM_{2.5}$ is described in Table 4.3-2. The Project analysis in Chapter 4.3 (pages 4.3-83–145) fully analyzes and calculates all criteria pollutant emissions from Project operations and MM 4.3-8, the Oil & Gas Emission Reduction Agreement (OG-ERA) will fully offset Project emissions of oxides of nitrogen (NO_X), particulate matter up to 10 microns in diameter (PM_{10}), $PM_{2.5}$, and reactive organic gases (Draft SSREIR, pp. 4.3-131–145).

The Court of Appeal's 2024 decision rejected all claims except for three areas in which the SREIR did not comply with CEQA: (1) mitigation for conversion of agricultural land; (2) adequacy of the multi-well HRA; and (3) analysis and mitigation for water supply impacts on disadvantaged communities. See*V Lions Farming LLC v. County of Kern* (2024) Case Nos. F084763, F085102, F085220, Slip Opin. at 106 (Cal. Ct. App. 5th Dist. March 7, 2024). The court directed the County to set aside its certification of the SREIR and approval of the Ordinance and to prepare a supplemental CEQA review correcting the three defects before bringing an oil and gas permit streamlining ordinance back to the Board of Supervisors for consideration. This comment and comments 005-13 through 005-21 on air quality, $PM_{2.5}$ and the OG-ERA do not address one of the three issues that the Court of Appeal decision and the trial court's Fourth Writ Judgment directed the County to analyze. These claims could have been, but were not, raised in the prior litigation on the Project and thus are barred by res judicata. Res judicata prohibits re-litigation of CEQA claims that were (or could have been) previously adjudicated and holds that a lead agency is not required to revisit CEQA issues that were decided in favor of the lead agency. See *Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165. The court expressly rejected claims that the revised mitigation for $PM_{2.5}$ emissions was inadequate, and no challenges to the broader analysis of air quality impacts from the Project were brought.

0005-13

The comment acknowledges that Table 4.3-1 in the Draft SSREIR has been revised to include the EPA's new NAAQS for $PM_{2.5}$ but states that the Draft SSREIR should be further revised to provide context for the change.

In response to this comment, the Draft SSREIR has been revised to add a sentence at the end of footnote (h) to Table 4.3-1 on p. 4.3-6, as follows:

> (h) On December 14, 2012, the national annual $PM_{2.5}$ primary standard was lowered from 15 µg/m^3 to 12 µg/m^3. Existing national 24-hour $PM_{2.5}$ standards (primary and secondary) were retained at 35 µg/m^3, as was the annual secondary standard of 15 µg/m^3. The existing 24-hour PM_{10} standards (primary and secondary) of 150 µg/m^3 also were retained. The form of the annual primary and secondary standards is the annual mean, averaged over three years. **On February 7, 2024, the EPA further lowered the national annual $PM_{2.5}$ primary standard from 12 µg/m^3 to 9 µg/m^3.**

It should also be noted that the San Joaquin Valley Air Pollution Control District (SJVAPCD) recently announced that the region has attained the 1997 federal standard for $PM_{2.5}$. See the SJVAPCD's April 23, 2025, press release (SJVAPCD 2023):

> Most notably, in 2024, the entire Valley reached attainment of the federal annual PM2.5 standard of 15 µg/m³—a historic achievement decades in the making. . . . Since PM2.5 monitoring began in 1999, annual averages have dropped from 27.6 µg/m³ to 13.5 µg/m³ in 2023—a reduction of more than 50%. In fact, the majority of the Valley has been in attainment of the standard for many years with the exception of a few areas. This significant progress has led to the region's design value for the three years spanning 2022–2024 falling below the federal PM2.5 standard of 15 µg/m³.

The Draft SSREIR has been revised to add a sentence in footnote (d) to Table 4.3-2 on page 4.3-7, as follows:

> (d) The SJV is designated nonattainment for the 1997 $PM_{2.5}$ standard. **On April 23, 2025, the SJVAPCD announced that the region has attained the 1997 $PM_{2.5}$ standard.** The EPA designated the SJV as nonattainment for the 2006 $PM_{2.5}$ standard on November 13, 2009.

0005-14

The comment states that the Draft SSREIR should address the implications of the revised annual $PM_{2.5}$ NAAQS. It further comment states that the SJV currently does not meet the new NAAQS and is not expected to meet them by 2032. The comment asserts that the SJVAPCD will have to institute further restrictions on pollution sources, including in Kern County.

The change in the annual $PM_{2.5}$ standard does not alter the conclusions in the Draft SSREIR regarding $PM_{2.5}$. As described in the Draft SSREIR, with implementation of MM 4.3-1 through 4.3-4 and MM 4.3-8, emissions of $PM_{2.5}$ will be fully offset (Draft SSREIR, p. 4.3-145). However, impacts of the Project remain significant and unavoidable. Should the SJVAPCD need to institute further restrictions on polluting projects and activities through the SJV airshed, including in Kern County, in order to reduce $PM_{2.5}$ emissions to meet the new NAAQS, any Project activities affected by those restrictions would be required to comply with the law.

In addition, the EPA is currently revisiting the $PM_{2.5}$ NAAQS and has announced that it will also soon release guidance to increase flexibility on NAAQS implementation (EPA 2025).

When a court issues a writ of mandate directing that an EIR be supplemented or corrected, this "does not mean the Agency is required to start the EIR process anew." See *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112; see also *Lotus v. Dept. of Transportation* (2014) 223 Cal.App.4th 645, 658. "Rather, the Agency need only correct the deficiency in the EIR . . . before considering recertification of the EIR." See *Protect the Historic Amador Waterways*, 116 Cal.App.4th at 1112. CEQA is designed specifically to avoid "endless rounds of revision and recirculation of EIR[s]." See *Silverado Modjeska Recreation and Park District v. County of Orange* (2011) 197 Cal.App.4th 282, 303 ("*Silverado Modjeska*"). A writ in a CEQA action directs "the public agency take specific action as may be necessary to bring the determination, finding, or decision into compliance with [CEQA]" (CEQA § 21168.9[a][3]. The fact that additional environmental assessment is conducted for a limited issue "is not an occasion to revisit environmental concerns laid to rest in the original analysis." See *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 949. Comments raising issues or questions with respect to the originally prepared EIR cannot require revisitation of that analysis (see, e.g., *Ione Valley*, 33 Cal.App.5th at 170). Thus, the Draft SSREIR does not need to be updated with respect to implications of the new $PM_{2.5}$ NAAQS or the SJVAPCD's plans to attain it.

0005-15

The comment states that the Draft SSREIR should be revised to provide updated information on the status of ambient air quality and air planning in the SJV. Please see Responses to Comments 0005-12, 0005-13, and 0005-14, above, regarding the scope and content of air quality analysis in the Draft SSREIR. No further revisions are required.

0005-16

The comment states that the EPA recently summarized the latest scientific studies on the health effects of $PM_{2.5}$ and that the Draft SSREIR's discussion of health effects should be updated to reflect this latest science. The Draft SSREIR includes a lengthy discussion on the health effect of $PM_{2.5}$ emissions, including, but not limited to, respiratory impacts, cardiovascular effects, nervous system effects, cancer impacts, and mortality (Draft SSREIR, pp. 4.3-29–43). This discussion reflects the same effects that are discussed in the EPA's summary referenced by commenter. The comment does not provide any new information regarding project changes or changed circumstances demonstrating new or substantially more severe impacts related to $PM_{2.5}$. While new studies relating to $PM_{2.5}$ have been conducted and published since the 2020 SREIR, the impacts of $PM_{2.5}$ were known and fully discussed in the SREIR (October 2020), which included a thorough discussion of research related to oil and gas operations and health effects (see pp. 4.3-29–43). In addition, this section of the Air Quality chapter was updated in the Draft SSREIR to include post-2020 studies (SSREIR, pp. 4.3-32–33, 39, 43). The reports that were previously included in the SREIR (October 2020) related to $PM_{2.5}$ and health effects date back to 2015, and thus the comment does not provide new information showing new or more severe impacts that were not already analyzed and disclosed in the SREIR and would require further analysis or discussion in the Draft SSREIR. In addition, as described in the Draft SSREIR, with implementation of MM 4.3-1 through 4.3-4 and MM 4.3-8, emissions of $PM_{2.5}$ will be fully offset (Draft SSREIR, p. 4.3-145). While impacts of the Project remain significant and unavoidable, all feasible mitigation has been adopted to address Project emissions. Please also see Responses to Comments

0005-12 and 0005-14, above, regarding the scope of analysis required in the Draft SSREIR, and Final SREIR Responses to Comments 0009-4, 0009-26.

0005-17

The comment states that the County should make changes to MM 4.3-8 and the OG-ERA. The Court of Appeal's 2024 decision rejected all claims except for three areas in which the SREIR did not comply with CEQA. As the commenter concedes, the Court of Appeal accepted the County's amended version of MM 4.3-8 and the OG-ERA as legally sufficient under CEQA and did not mandate further changes to the amended MM 4.3-8 or the OG-ERA. Thus, no revisions to either of these items are required in the Draft SSREIR. To the extent that commenters nevertheless advocate that, as a policy matter, the County should exercise its discretion to amend MM 4.3-8 and the OG-ERA as suggested in this and the following comments, these comments do not relate to the CEQA process. The comments are noted for the record and will be provided to the decision-makers.

The comment states that the OG-ERA should require emissions of $PM_{2.5}$ to be offset with reductions in $PM_{2.5}$. The Draft SSREIR explains how OG-ERA emission reduction projects will likely reduce $PM_{2.5}$ at higher rates than PM_{10} (Draft SSREIR, pp. 4.3-141–142). In its 2024 decision, the Court of Appeal stated that MM 4.3-8 and the OG-ERA were valid mitigation and that the measure was "fully enforceable" as to $PM_{2.5}$ emissions. See *V Lions Farming*, Slip Opin. at 46. Please see also Final SREIR Responses to Comments 0009-17, 0009-18, 0009-25, 0009-27, 0009-28, 0009-29, 0009-145, and 0009-148.

0005-18

The comment states that the County should make changes to MM 4.3-8 and the OG-ERA. As the commenter notes, the Court of Appeal accepted the County's amended version of MM 4.3-8 and the OG-ERA as legally sufficient under CEQA, and thus no revisions to either of these items are required in the Draft SSREIR. The comment requests that the OG-ERA be amended to require that air quality mitigation funds are spent such that mitigation does not lag behind the onset of Project activities. In its prior opinion, the Court of Appeal directly addressed this question and concluded that mitigation was not deferred; fee-based programs are authorized by the CEQA Guidelines and have been upheld by the courts; and MM 4.3-8 with its potential lag did not violate CEQA so long as it was reasonable and feasible, because the EIR fulfilled its role as an informative document in describing the potential lag and how an alternative that would eliminate the lag was not recommended (*King and Gardiner Farms, LLC v. County of Kern* [2020] Case No. F077656, Slip Opin. at 67 [Cal. Ct. App. 5th Dist. Feb. 25, 2020]). The SSREIR also incorporates information about this potential lag (see Draft SSREIR, pp. 4.3-137–140). The SREIR states that the OG-ERA allows for flexibility, technological innovations, and the mitigation fees to be spent on the most effective emission reduction projects available at the time fees are received. Nothing in CEQA or CEQA caselaw requires mitigation fee programs to implement mitigation contemporaneously with project activities. Courts have held that even mitigation with no specific schedule for implementation is sufficient. See *Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 818 (absence of specific time schedule for completing road improvements with traffic mitigation fees was not fatal).

Nothing in CEQA requires a mitigation fee program to show contemporaneous mitigation with fee collection or with emitting activities. Improvements from these types of fee-based mitigation programs are

never "in place" until fees sufficient for their construction have accumulated from sometimes many projects or until mitigation land has been identified, and these improvements are certainly not in place before impacts occur from the first contributing projects. As the Supreme Court observed in *City of Marina v. Board of Trustees of California State University*, "[a]ll that is required by CEQA is that there be a reasonable plan for mitigation…we must presume and expect that the County will comply with its own ordinances, and spend the fees it collects on the appropriate improvements...." (2006) 39 Cal.4th 341, 365, quoting *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 140–141 (fees sufficient though specific projects and timing left up to county).

The fact that the OG-ERA will result in more emission reductions than are required to reduce emissions from project activities to net zero further supports the fact that any lag does not undermine the OG-ERA program. The majority of project emissions result from construction activities, including well drilling, and these emissions are temporary. However, the emission reduction projects funded by OG-ERA fees result in the permanent shutdown of emitting equipment and the permanent removal of those emissions from the San Joaquin Valley Air Basin (SJVAB). Only the first year of those emission reductions is truly counted as mitigation obtained by the OG-ERA fees, despite the fact that those reductions continue in perpetuity. The OG-ERA results in higher emission reductions than the emissions that occur in just one year from the project and for which fees are paid. For example, fees collected for a well drilled in year one will result in reductions in year two that offset emissions from that well when the emission reduction project implemented with those fees is put into place. As the emission reduction project will continue to result in emission reductions in years three, four, five, etc., it will also offset, to some extent, construction activities from the project occurring in those later years, even though those projects will also pay mitigation fees into the OG-ERA fund. Please see also Final SREIR Responses to Comments 0009-17, 0009-18, 0009-19, 0009-144, 0061-8, and 0061-13.

0005-19

The comment states that the County should make changes to MM 4.3-8 and the OG-ERA. As the commenter notes, the Court of Appeal accepted the County's amended version of MM 4.3-8 and the OG-ERA as legally sufficient under CEQA, and thus no revisions to either of these items are required in the Draft SSREIR. The comment states that better reporting of how fee monies are spent and the degree to which mitigation has been achieved should be required. Nothing in CEQA requires the Draft SSREIR to explain the details of how a fee-based mitigation measure will achieve mitigation. As the Supreme Court observed in *City of Marina v. Board of Trustees of California State University*, "[a]ll that is required by CEQA is that there be a reasonable plan for mitigation…we must presume and expect that the County will comply with its own ordinances, and spend the fees it collects on the appropriate improvements...." (2006) 39 Cal.4th 341, 365, quoting *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 140–141 (fees sufficient though specific projects and timing left up to county). The Draft SSREIR discusses historic spending and fee collection under MM 4.3-8 and the OG-ERA (Draft SSREIR, pp. 4.3-137–140). The SJVAPCD chooses how to report the emission reduction data in its annual reports and has disclosed the total annual emissions reduced by Voluntary Emission Reduction Agreements/ Indirect Source Rules in the valley in these reports. The SJVAPCD also reports annually to the County on the total mitigation funds received from the County under the OG-ERA and the mitigation funds spent or encumbered by the SJVAPCD. There is no requirement under CEQA for the County or SJVAPCD to report emission reductions and funds received under the OG-ERA in any particular way. While the County's

annual reports only present the amount of fee monies collected, the SJVAPCD Indirect Source Rules Annual Reports present the quantities of air pollution reduced. It is possible to determine from the combination of the County reports and the SJVPACD the amount of emission reductions likely attributable to OG-ERA funds. The comment has identified no evidence to suggest that the OG-ERA will not fund actual reductions totaling the emissions from the Project. Please see Final SREIR, Responses to Comments 0009-17 through 0009-20, and 0061-9.

0005-20

The comment states that the County should make changes to MM 4.3-8 and the OG-ERA. As the commenter notes, the Court of Appeal accepted the County's amended version of MM 4.3-8 and the OG-ERA as legally sufficient under CEQA and thus no revisions to either of these items are required in the Draft SSREIR. The comment requests that fee monies collected pursuant to MM 4.3-8 should only be spent on pollution-reducing projects in Kern County. The Draft SSREIR explains that the OG-ERA states that cost-effectiveness should be a key consideration in selecting among emission reduction projects to be funded with mitigation fee monies and that emission reduction projects in Kern County should be prioritized ahead of emission reduction projects elsewhere in the SJVAPCD (see Draft SSREIR, p. 4.3-137). The OG-ERA thus attempts to balance these policy goals by stating that, in selecting emission reduction projects, if Kern County emission reduction projects are not the most cost-effective, then County projects costing up to $250 more per ton than the most cost-effective emission reduction projects outside Kern County shall nevertheless be selected by the SJVAPCD to spend up to 20 percent of the mitigation fee funds available. If emission reduction projects in Kern County cost in excess of $250 per ton more than the most cost-effective emission reduction projects in other counties, then the SJVAPCD may select those projects outside Kern County to achieve the required emission reductions. Thus, though some mitigation fees will be spent for projects outside of Kern County, attainment of the federal and state standards for criteria pollutants and impacts from criteria pollutant emissions are an area-wide issue beyond the confines of Kern County. Reductions in emissions outside of Kern County can affect and alleviate pollutant levels in the County, based on weather, meteorology, topography, and other factors. The SJVAPCD, as the expert agency on air quality, is best placed to decide which emission reduction projects will best help the SJV to attain the state and federal $PM_{2.5}$ standards.

Information from the SJVAPCD shows that, as of 2020, approximately 91 percent of the emission reduction projects implemented with OG-ERA funds were in Kern County. There were approximately 522 emission reduction projects implemented with OG-ERA fees—475 in Kern County, 32 in Tulare County, 10 in Merced County, four in San Joaquin County, and one in Stanislaus County. Thus, the overwhelming number of emission reduction projects being funded by the OG-ERA are occurring in Kern County. The comment asserts that information about where emission reduction projects are being implemented and where OG-ERA funds have been spent since the Ordinance was adopted is significant new information. MM 4.3-8 and the OG-ERA do not rely on emission reduction projects being implemented in particular locations. What matters for the purposes of MM 4.3-8 is that emission reductions are achieved in the SJVAB in numbers sufficient to offset Project emissions, not whether those emission reduction projects are in Kern County or elsewhere in the SJVAB. However, as explained above, the vast majority of emission reduction projects have occurred in Kern County. MM 4.3-8 and the OG-ERA will fully mitigate Project emissions, and nothing further is required under CEQA. Please see Final SREIR, Responses to Comments 00009-24 and 0061-14.

0005-21

The comment states that the County should make changes to MM 4.3-8 and the OG-ERA. As the commenter notes, the Court of Appeal accepted the County's amended version of MM 4.3-8 and the OG-ERA as legally sufficient under CEQA and thus no revisions to either of these items are required in the Draft SSREIR. The comment requests that OG-ERA fees should be spent on pollution-reducing projects that directly benefit community members who experience disproportionate pollution and socioeconomic burdens, and should create a body or mechanism for local community input on fee expenditures. MM 4.3-8 and the OG-ERA were created to offset emissions from Project operations in order to reduce regional impacts from criteria pollutants and help attain the NAAQS. Criteria pollutant impacts are not local, but regional, and thus emission reduction projects funded under the OG-ERA are not required to be located in certain areas in order to be effective. Rather, the OG-ERA must only offset the net emissions from Project operations at some location in the SJVAB. The comment also requests that a body be created for local community input on fee expenditures. The Draft SSREIR explains how emission reduction projects are identified, how decisions are made regarding funding, and how outreach efforts are conducted to identify projects within the County. The OG-ERA gives the responsibility for identifying and funding projects to the SJVAPCD, and thus the County does not play a part in identifying or funding projects. The County can rely on the SJVAPCD fulfilling its legal duties under the OG-ERA. *Oakland Heritage Alliance v. Oakland* (2011) 195 Cal.App.4th 884, 906; *City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 365; *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 140–141. The comment's request to focus on community benefits outside of the SJVAPCD's typical incentive program to open up the possibility of greater reductions closer to directly impacted community residents will be considered by County decision-makers. MM 4.3-8 and the OG-ERA will fully mitigate Project emissions, and nothing further is required under CEQA. Please see Final SREIR, Responses to Comments 0009-17 through 0009-30, and 0061-14.

0005-22

The comment references statistics on Valley Fever cases countywide in Kern County and requests changes to MM 4.3-6 to implement expanded protections. The comment is noted for the record. Please see response to Comment 0005-23.

0005-23

The comment requests that mitigation proposed and published by the County in other non-certified (99 Houghton Industrial Park) and Draft EIRs (IPG Industrial Project) be imposed on the Project and MM 4.3-6 be amended. Mitigation is project specific and reflects the construction and operational methods used that create impacts. Both projects cited are industrial projects that will involve mass grading, use of large earthmoving equipment, and 12 to 24 months of exposure. The cited language has also been utilized in commercial-scale solar projects that cover thousands of acres and take up to three years of continuous construction with related worker exposure to construction. In the context of the shorter duration and smaller disturbance areas for oil and gas activities, some of the mitigation measures cited by the comment are inapplicable or infeasible. The oil and gas activities covered by the SSREIR would not involve mass grading or long-duration exposure. As noted in the SSREIR on page 3-52, each new production well in the Project Area was analyzed at the following sizes: Western Subarea 2 acres, Central Subarea 3 acres and Eastern

Subarea 1.2 acres. While workers will be exposed in the oilfields, that exposure will be of shorter duration (from less than 24 hours to more than 60 days for well drilling, depending on the depth; see Draft SSREIR, Project Description p. 3-54) and mass grading will not occur. The following deletions (strikeouts) and additions (bold underline) are proposed for MM 4.3-6.

MM 4.3-6 The following measures shall be implemented to address Valley Fever and declared pandemics:

A. **Equipment, vehicles, and other items shall be thoroughly cleaned of dust before they are moved offsite to other work locations.**

B. **Wherever possible, grading and trenching work shall be phased so that earth-moving equipment is working well ahead or downwind of workers on the ground.**

C. **The area immediately behind grading or trenching equipment shall be sprayed with water before ground workers move into the area.**

D. **In the event that a water truck runs out of water before dust is sufficiently dampened, ground workers exposed to dust shall leave the area until a truck can resume water spraying.**

E. ~~**A.**~~ Applicants shall include in their Worker Environmental Awareness Program information on how to recognize the symptoms of Valley Fever and to promptly report suspected symptoms of work-related Valley Fever to a supervisor. A Valley Fever informational handout shall be provided to all onsite construction personnel. The handout shall, at a minimum, provide information regarding the symptoms, health effects, preventative measures, and treatment. Additional information and handouts can be obtained by contacting the Kern County Public Health Services Department.

F. Onsite personnel shall be trained on the proper use of personal protective equipment, including respiratory equipment. National Institute for Occupational Safety and Health (NIOSH)-approved respirators shall be to onsite personal, upon request, as part of the Worker Environmental Awareness Training Program. **When exposure to dust is unavoidable, appropriate NIOSH-approved respiratory protection shall be made available for affected workers. If respiratory protection is deemed necessary, employers must develop and implement a respiratory protection program in accordance with the California Occupational Safety and Health Administration's Respiratory Protection standard (8 CCR 5144).**

G. Applicants shall pay a $25 fee per individual well on Oil and Gas Conformity Reviews to be used by the Kern County Public Health Services Department for the specific purposes of continued Valley Fever education and outreach.

H. Applicants shall implement all orders related to any declared pandemic or any other pandemic mandated by Kern County Public Health on well sites and related to worker safety.

0005-24

This comment introduces comments on the analysis and mitigation of water supply impacts on disadvantaged communities (DACs). The comment is introductory. No response is necessary.

0005-25

The commenters assert that the Draft SSREIR understates the Project's impacts on localized water supplies in DACs. The comment is incorrect. The Draft SSREIR acknowledges that "failure-susceptible [water] wells at the Project Area DACs range from 0 to 50 percent of the total water supply wells at those DACs. Of 49 supply wells, the DWR identified 12 as susceptible to failure, equivalent to 24 percent of the DAC area wells identified as failure-susceptible" (Draft SSREIR, p. 4.17-34). The analysis concludes that the impact is significant and unavoidable even with feasible mitigation (Draft SSREIR, p. 4.17-115).

The comment asserts that the Draft SSREIR's statement that "the number of failure-susceptible wells per 1-square-mile area at DACs is relatively low in comparison to other areas on a statewide basis" is misleading. This statement is accurate and supported by the technical analysis in Draft SSREIR Appendix C. A lead agency has discretion to choose the methodology for analyzing a potentially significant environmental impact, which is subject to deferential substantial evidence review (*Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 514). For the Draft SSREIR, the County chose the methodology utilized by the California Department of Water Resources (DWR) for its database and mapping tool, which documents well susceptibility to dryness throughout the state (see Draft SSREIR, pp. 4.17-27–35 and Appendix C). The DWR methodology compares well densities (wells per square mile), not absolute well numbers. As explained in Draft SSREIR Appendix C, page 5:

> [The DWR's] interactive map classifies 1-square-mile grid cells based on the number of domestic wells within each cell that are susceptible to going dry if recent groundwater trends continue (i.e., failure-susceptible wells). Grid cells are classified by percentiles based on the number of failure-susceptible wells in a grid cell compared to all such grid cells on a statewide basis. Therefore, a grid cell that has a given number of failure-susceptible wells would be in the same percentile class regardless of its location in the state. Lower percentiles correspond to fewer failure-susceptible wells, and higher percentiles correspond with more failure-susceptible wells in a grid cell.

For the analysis in Draft SSREIR Appendix C, the DWR map data were correlated with the locations of Project Area DACs. The results demonstrated the following:

- All 12 DACs in the Project Area contain some grid cells with no failure-susceptible wells.
- Seven DACs also contain grid cells classified by DWR in the 0th to 10th percentile (one failure-susceptible well per square mile).
- One DAC contains grid cells in the 10th to 20th percentile (two failure-susceptible wells per square mile).
- One DAC contains grid cells in the 20th to 30th percentile (three failure-susceptible wells per square mile).

No DACs in the Project Area contain grid cells classified by the DWR as exceeding the 30th percentile (Draft SSREIR, pp. 4.17-32–35, Table 4.17-19; Appendix C, p. 5-7).

The comment states that the water supply analysis should account for the proportion of the water supply at risk of failure. The Draft SSREIR provides such analysis based on the DWR data. See Table 4.17-20 on p. 4.17-35, which shows the numbers of failure-susceptible wells as a fraction of total wells, and numbers of reported dry wells as a fraction of total wells; see also Table 4.17-19 on p. 4.17-33–34, which shows the proportion of land area with failure-susceptible wells in comparison to the total area of each DAC. The analysis demonstrates that, at all but one DAC, wells susceptible to failure were identified in less than half of the area, and there were no failure-susceptible wells in 89.2 percent of the total DAC area within the Project Area. Only one residential supply well was reported as actually having gone dry per the DWR's Dry Well Reporting web page (Draft SSREIR, p. 4.17-34). Contrary to the commenters' claim, these results support the conclusion that: "Overall, the DWR's well failure susceptibility evaluation indicates that potential well failure because of groundwater level decline is not a pervasive occurrence at Project Area DACs and that failure susceptibility is localized within relatively limited areas" (Draft SSREIR, p. 4.17-34).

Commenters object that the DWR's metric of well failure susceptibility does not account for the lower water supply redundancy inside grid cells with few wells. The Draft SSREIR discloses that, where a particular community relies on a small number of wells and hence has little redundancy, water system improvements may be needed to improve reliability of water supplies (Draft SSREIR, p. 4.17-36). The commenters claim that DACs overall have fewer wells than elsewhere in the state but cite no data to support this claim. In any case, it would be difficult to meaningfully compare well numbers between DACs and non-DACs throughout the state since local well density varies greatly, influenced by factors such as geography, hydrology, population density, and local demand. See the DWR's map of domestic well densities in California, available at https://storymaps.arcgis.com/stories/f2b252d15a0d4e49887ba94ac17cc4bb.

Moreover, it is not necessarily true that a grid cell with low well density has low supply redundancy. For example, a grid cell containing two wells may have greater redundancy than another containing four wells, if the two wells in the first location connect to a common piping system so that one can substitute for another, while the four wells in the second location are isolated with no functional redundancy. In addition, a user whose well goes dry may be connected to a redundant supply in another grid cell. For these reasons, it is infeasible to perform the quantitative redundancy analysis demanded by the commenters, and they do not propose any methodology or data sources that could feasibly be utilized for such analysis. "CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR" (CEQA Guidelines § 15204(a)).

It should also be noted that the commenters previously proposed that an "obvious approach" for the SSREIR water supply analysis would be to follow the methodology used by the Water Foundation and EKI Environment & Water, Inc. in two papers from 2020 (Center for Biological Diversity et al. comments on the SSREIR Notice of Preparation, p. 10, included in SSREIR Appendix B, NOP Comments). The Water

Foundation and EKI papers utilized DWR groundwater level mapping data and did not address redundancy of water supplies. See Water Foundation (2020) and (EKI 2020). The EKI (2020) study is discussed in the Draft SSREIR, p. 4.17-36.

0005-26

The comment asserts that the SSREIR must address the Project's contribution to domestic well contamination and DAC susceptibility to well contamination. The Draft SSREIR discloses that, where a particular community's source water does not meet drinking water standards, water system improvements may be needed to improve reliability of water supplies, including water treatment systems where poor water quality is a problem (Draft SSREIR, p. 4.17-36). Commenters speculate that groundwater pumping for oil and gas operations permitted under the Project could mobilize groundwater contamination and lower water quality in DAC wells, thereby indirectly causing potentially significant impacts to water supplies. As evidence for this claim, commenters cite the 2020 Water Foundation report on projected mitigation costs for wells that do not attain sustainability criteria under Groundwater Sustainability Plans and a 2018 study indicating that naturally occurring arsenic may be mobilized by groundwater pumping (Smith et al. 2018). Neither of those sources addresses potential impacts related to oil and gas industry use of groundwater. Speculation and unsubstantiated opinion does not constitute substantial evidence under CEQA (CEQA Guidelines §§ 15064(f)(5), 15384(a)).

The oil and gas industry uses a very small portion (less than 0.1 percent) of the groundwater used in the Central Valley portion of Kern County (Draft SSREIR, Appendix C, p. 24). Project water quality impacts, including impacts on sources of drinking water; groundwater sustainability, including efforts to manage groundwater contamination; and localized water supply and well failure susceptibility in DACs, were analyzed and discussed extensively in the 2015 EIR, the SREIR, and the SSREIR (see Draft SSREIR, pp. 4.9-189–222 and 4.17-94–115).

As noted in response to Comment 0005-25, the commenters previously proposed that an "obvious approach" for the SSREIR water supply analysis would be to follow the methodology used papers by the Water Foundation and EKI Environment & Water, Inc. Those papers utilized DWR groundwater level mapping data and did not address well contamination resulting from groundwater pumping.

This comment does not address one of the three issues that the Court of Appeal decision and the trial court's Fourth Writ Judgment directed the County to analyze. (*V Lions Farming LLC v. County of Kern* (2024) Case Nos. F084763, F085102, F085220, Slip Opin. at 106 (Cal. Ct. App. 5th Dist. March 7, 2024). With respect to water supply impacts on DACs, the Court of Appeal's analysis focused on changes in groundwater levels and the physical impact of dewatering groundwater wells. The Court of Appeal determined that use of groundwater in the Project Area contributes to the lowering of groundwater levels, which can physically impact communities that rely on shallow wells (see *V Lions Farming* at 78–80). In the prior litigation, commenters did not claim that, in addition to lowering groundwater levels, Project groundwater pumping could impact water quality in DAC wells. Thus, the issue is barred by res judicata, which prohibits re-litigation of CEQA claims that were, or could have been, previously adjudicated (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165). When a court issues a writ of mandate directing that an EIR be supplemented or corrected, this "does not mean the Agency is required to start the EIR process anew. . . . Rather, the Agency need only correct the

deficiency in the EIR . . . before considering recertification of the EIR" (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112). CEQA is designed specifically to avoid "endless rounds of revision and recirculation of EIR[s]" (*Silverado Modjeska Recreation and Park District v. County of Orange* (2011) 197 Cal.App.4th 282, 303).

Supplemental CEQA review is required if new information of substantial importance is available, which was not known and could not have been known when the prior EIR was certified, that shows the project will have new or substantially more severe environmental impacts (CEQA Guidelines § 15162(a)(3)(A), (B)). The commenters provide no such new information suggesting new or substantially more severe water supply impacts on DAC wells from Project groundwater pumping potentially affecting water quality. As noted above, the Smith et al. and Water Foundation papers cited by the commenters do not address the issue. Moreover, these papers do not contain new information that was not known and could not have been known when the prior EIR was certified. The Smith et al. study was published in 2018, and the Water Foundation report was published in June 2020 and previously submitted by commenters in their comments on the Draft SREIR (October 2020).

0005-27

The commenters support the requirements in MM 4.17-3 for funding to address water supply impacts to DACs and for applicants to identify groundwater source wells. The comment is noted. The commenters also state that MM 4.17-3 should be revised as suggested in subsequent comments. This comment is introductory, and no response is necessary.

0005-28

The commenters note that their previous scoping comments asserted that DACS must not be forced to pay or otherwise suffer from loss of domestic water supply, and that community members should be consulted on water supply mitigation measures and have a role in implementation. The comment is noted for the record and will be provided to the decision-makers.

MM 4.17-3 provides mitigation for the physical change/environmental impact of lowered groundwater levels in DAC wells attributable to the Project (Draft SSREIR, pp. 4.17-114–115); see also responses to Comments 0005-29–42. The determination of impact significance included consideration of economic and social effects—in particular, the likelihood that DACs may experience more severe impacts from declining groundwater levels because corrective action may be unavailable or delayed by funding constraints (Draft SSREIR, pp. 4.17-34–43, 4.17-111–112). MM 4.17-3 is expected to reduce the need for DAC members to pay for water supply improvements. However, economic cost to community members is not itself an environmental impact requiring mitigation. See CEQA Guidelines § 15064(e) (although economic or social effects may be used to determine whether a physical change is significant, economic and social changes resulting from a project shall not be treated as significant effects on the environment).

The SSREIR, including mitigation measures, has been developed in compliance with the public participation requirements of the CEQA process (see Draft SSREIR Section 2.4, Decision-Making Process, pp. 2-8–12). There is no requirement in CEQA to provide an ongoing role for community members in implementation of mitigation measures; however, all implementation of the projects identified for

consolidation or extension of services always involves extensive discussions and outreach to the affected communities as the solutions impact them.

0005-29

The comment states that MM 4.17-3 should be revised to clarify whether water system consolidation projects funded under the measure may include both mandatory and voluntary consolidation projects or only one or the other category.

MM 4.17-3.D provides that mitigation fees are:

> to be used in support of the State Water Board's Mandatory Consolidation or the Extension of Service for Disadvantaged Communities Program. . . . The funding shall be used by the Kern County Public Health Services Department for the specific purpose of contributing to non-profits and/or water districts working on drinking water consolidation programs in the central valley portion only of Kern County. Funding may be used for matching funds for DWR grants, non-profit organizations and water districts' staffing for engineering and construction project needs; or implementation of construction projects qualifying for the State Water Board's Mandatory Consolidation Program or meeting the criteria established for consolidation by the State Water Board (Draft SSREIR, pp. 4.17-114 – 115).

SWRCB's Mandatory Consolidation or Extension of Service for Disadvantaged Communities Program is an established program partially funded every year by the State Legislature that implements consolidation programs to ensure that failing small water systems become annexed and maintained by an established community services district or mutual water company (Draft SSREIR, pp. 4.17-111–112). The SWRCB's Division of Drinking Water identifies and directs failing water systems to consolidate with, or seek an extension of service from, a public water system. If voluntary consolidation cannot be accomplished in a reasonable time period, the SWRCB may order mandatory consolidation or extension of service pursuant to Health and Safety Code Section 116682 (Draft SSREIR, p. 4.17-41).

The phrase "qualifying for the State Water Board's Mandatory Consolidation Program or meeting the criteria established for consolidation by the State Water Board" is intended to include all consolidation projects pursuant to the program. The SWRCB's Mandatory Consolidation Program includes both the initial direction to pursue voluntary consolidation of water systems that the board has identified as failing, and subsequent direction for mandatory consolidation if such systems cannot accomplish voluntary consolidation in a reasonable time period.

The comment further asserts that, to provide effective mitigation, MM 4.17-3 should be extended to additional projects beyond those that have been or could be ordered to consolidate by the SWRCB. This comment introduces later comments, and no response is necessary. Please see responses to Comments 0005-35–37.

0005-30

The comment states that the reference in MM 4.17-3 to SWRCB criteria for consolidation projects is unclear because, while the SWRCB has criteria for eligible consolidations, those criteria apply only to mandatory

consolidation. An SWRCB "consolidation letter" is the first step in the mandatory consolidation process, notifying a consistently failing water system that it and the receiving system have six months to develop a plan for voluntary consolidation or the SWRCB may direct mandatory consolidation. Therefore, under the SWRCB's consolidation program, systems that meet the criteria for mandatory consolidation may choose to proceed voluntarily after receiving consolidation letters, or may be directed to mandatory consolidation See: https://www.waterboards.ca.gov/drinking_water/programs/compliance/docs/fs082415_mand_consolid_faq.pdf and https://www.waterboards.ca.gov/drinking_water/programs/compliance/ (11 active projects in which the parties agreed to proceed voluntarily after receiving an SWRCB letter). Consolidations that do not meet the criterion of serving DACs have been discontinued from the program See "Discontinued Projects" listed at https://www.waterboards.ca.gov/drinking_water/programs/compliance/.

The comment also states that the SSREIR fails to discuss numerous other laws and regulations governing or otherwise affecting consolidation projects. The commenters do not identify such laws and regulations or explain why they need to be discussed in relation to MM 4.17-3. Agencies and organizations implementing consolidation projects funded by the mitigation measure will be responsible for compliance with laws and regulations applicable to their projects.

0005-31

The comment notes that grant programs may fund a variety of projects in addition to consolidation projects, and states that it is not clear what grant funds can be matched by funds collected under MM 4.17-3. The comment asserts that MM 4.17-3 must be amended to clarify whether non-consolidation projects, voluntary consolidations, and extensions of service will be eligible for funding under the measure, and what criteria the Public Health Services Department must consider in allocating funding.

MM 4.17-3 provides the criteria for the Public Health Services Department's consideration:

> The funding shall be used by the Kern County Public Health Services Department for the specific purpose of contributing to non-profits and/or water districts working on drinking water consolidation programs in the central valley portion only of Kern County. Funding may be used for matching funds for DWR grants, non-profit organizations and, water districts' staffing for engineering and construction project needs; or implementation of construction projects qualifying for the State Water Board's Mandatory Consolidation Program or meeting the criteria established for consolidation by the State Water Board.

Accordingly, when MM 4.17-3 funding is used to provide matching funds for grants and other programs, the MM 4.17-3 funds must be used for the "specific purpose" of supporting consolidation programs, even if the same grant sources or programs may also support non-consolidation projects. Please see responses to Comments 0005-29 and 0005-30 regarding voluntary consolidations.

MM 4.17-3 funding is limited to "non-profits and/or water districts working on drinking water consolidation programs" and projects "meeting the criteria established for consolidation by the State Water Board." No revision is necessary.

0005-32

The comment asserts that MM 4.17-3 should explicitly require the Public Health Department to direct funds to DACs. MM 4.17-3 provides that mitigation funds will be directed to the SWRCB's Mandatory Consolidation or Extension of Service for Disadvantaged Communities Program. As the commenters acknowledge, the SWRCB criteria for directing consolidation include a requirement that the water system is in a DAC. Consolidations that did not serve DACs have been discontinued from the program "Discontinued Projects" listed at https://www.waterboards. ca.gov/drinking_water/programs/compliance/).

The comment also asserts that MM 4.17-3 must be amended to provide for community involvement in the decision-making process with due regard for community priorities. There is no requirement for community involvement in implementing mitigation measures. However, all implementation of the projects identified for consolidation or extension of services always involves extensive discussions and outreach to the affected communities as the solutions impact them.

Please see response to Comment 0005-28.

0005-33

The comment state that MM 4.17-3 should be revised to require (1) an affirmative determination that the community benefitting from mitigation funding is a DAC; (2) public hearings on mitigation funding decisions and criteria; (3) reporting on funded projects in English and Spanish; and (4) consultation on funding decisions with an advisory committee including community members. To the extent that commenters advocate that the County should consider their suggestions as a policy matter, this comment does not relate to the CEQA process. The comment is noted for the record and will be provided to the decision-makers.

Regarding the commenters' proposal (1), see response to Comment 0005-32. Regarding proposals (2) and (4), see response to Comment 0005-28. Regarding proposal (3), see responses to Comments 0005-1 and 0005-4. Reporting on funded projects will be included in the Kern County Oil and Gas Permitting Program Annual Progress Reports released in December of each calendar year, with specific funded projects detailed with timeframes for implementation.

0005-34

The comment asserts that DACs in incorporated cities should be included as recipients of mitigation funds provided by MM 4.17-3. The commenters note that some DACs in the Project Area are served by water systems that may be located in incorporated cities, which are excluded from the Project Area.

MM 4.17-3.D states that: "The funding shall be used by the Kern County Public Health Services Department for the specific purpose of contributing to non-profits and/or water districts working on drinking water consolidation programs in the central valley portion only of Kern County." This language allows water systems and communities in incorporated cities to receive funding under MM 4.17-3.

0005-35

The comment asserts that mitigation funding under MM 4.17-3 should not be limited to consolidation projects. This comment introduces subsequent comments. Please see responses to Comments 0005-36 -42.

The commenters claim that limiting mitigation funding to projects in the Mandatory Consolidation Program may not be practical or advisable. As evidence to support this claim, the commenters cite the SWRCB website showing that only three of the program's consolidation projects have been completed.

On the contrary, the SWRCB website provides evidence that the mandatory consolidation program is active and ongoing and can be expected to provide opportunities for investment of mitigation funds under MM 4.17-3 (see https://www.waterboards.ca.gov/drinking_water/programs/compliance/). In addition to the three completed projects, the website lists 19 active consolidation projects currently in progress (11 consolidations where the parties agreed to proceed voluntarily after receiving an SWRCB letter plus eight mandatory consolidations where voluntary consolidation did not occur). Only two consolidations projects were discontinued, for systems that did not qualify because they did not serve DACs (*Id*). There is no evidence that the SWRCB or the water systems involved are unreasonably delaying completion of consolidations. To the extent that funding constraints may slow projects, MM 4.17-3 is expected to help advance projects more quickly.

0005-36

The comment states that the Draft SSREIR fails to identify communities in the central valley portion of Kern County, where consolidation may or may not be suitable to address water supply impacts. The commenters provide no information to suggest that consolidation may not be suitable to address impacts in communities in the central valley portion of the County.

0005-37

The comment asserts that the Draft SSREIR fails to explain the selection of consolidation in preference to other measures that could increase water supply availability in DACs. The Draft SSREIR, on pages 4.17-111–112 explains the reasoning behind selection of the SWRCB's Mandatory Consolidation Program for inclusion in MM 4.17-3. This is an established program, partially funded every year by the State Legislature, that implements consolidation programs to ensure that failing small water systems become annexed and maintained by an established community services district or mutual water company.

Reliance on an established program provides greater certainty of effective mitigation as required by CEQA, as the Draft SSREIR explains in comparing the consolidation program to another option: contributing funds collected under MM 4.17-3 to the proposed Groundwater Sustainability Plan (GSP) Mitigation Program for the Kern County Subbasin (Draft SSREIR, pp. 4.17-43, 111–112). As discussed in the Draft SSREIR (pp. 4.17-111–112), development of the GSP Mitigation Program is in flux. SWRCB staff have recommended that the Board place the subbasin on probation and require the Groundwater Sustainability Agencies (GSAs) to address (among other deficiencies) an inadequate domestic well mitigation plan. The GSP, including its Mitigation Program, is likely to be revised by the GSAs and/or by the SWRCB as necessary to address the deficiencies and provide additional groundwater protections, but the content of those revisions has not yet been determined. Under the circumstances, the SSREIR concluded, the GSP

Mitigation Program does not provide reasonable certainty of outcomes, and therefore it is not considered feasible to rely on the GSAs to implement mitigation through that program using funds collected under amended MM 4.17-3. By comparison, the Draft SSREIR explained, it is preferable to rely on the SWRCB's established Mandatory Consolidation or Extension of Service for Disadvantaged Communities Program to implement the payment-based mitigation (Draft SSREIR, pp. 4.17-111–112). The SWRCB has required the subbasin GSAs to submit revised GSPs by June 20, 2025, and scheduled a probationary hearing for September 17, 2025 (SWRCB 2025).

0005-38

The comment supports the water supply mitigation fee in MM 4.17-3 but notes the $2,200 per acre foot cost for treated water utilized in the calculation of the mitigation payment requires explanation. The comment is noted for the record. Costs for potable treated drinking water are based on location and circumstances. For example, the average cost of delivering State Water Project water ranges from $250 per acre-foot in the San Joaquin Valley to $600 per acre-foot in Southern California and as high as $1,440 per acre-foot on the Central Coast, which then must be treated for delivery to communities. For water recycling programs, the median cost is $2,200 per acre-foot, with a range of $1,000 to $3,500, while seawater desalination facilities have a median cost of $2,800 per acre-foot with a range of $2,500 to $4,700 (Berkeley Research Group 2023, p. 28). Based on this information, use of the $2,200 per acre-foot cost in the fee calculation is reasonable.

The comment states that the water supply mitigation fee should be increased as the cost per acre-foot of purchased treated drinking water increases. However, costs per acre-foot vary significantly from year to year, depending on whether hydrologic conditions are wet or dry. The amount of the mitigation for the Disadvantaged Communities Waste Relief Fund uses the per-acre cost to obtain treated drinking water as only one factor in the calculation and is at the upper limit of the noted range. The projects identified in the drinking water consolidation projects for MM. 4.17-3 are not buying treated drinking water supplies for communities but constructing actual physical improvements for water wells, pipeline extensions, and connections to residences. The per-acre-foot cost for treated drinking water is linked to the annual amount of water utilized by the projected oil and gas drilling operations at full implementation of the project to arrive at a fair share projected per-well cost of that use. The collected fees can then be utilized for physical projects or additional funding for physical projects that receive grants from the State and other sources. As discussed in the Draft SSREIR (p. 4.17-112), the mitigation payment for each well is set at the upper range of the projected water usage. At the maximum number of 2,697 wells per year permitted by the Ordinance, the fee amount specified in MM 4.17-3 would provide $25.9 million in mitigation funding per year. At the average number of 1,800 new wells per year based on previous permitting, the fees would provide $17.3 million in mitigation funding per year. Projects implemented under the consolidation program range from $600,000 to $1.2 million and funding is limited in the State budget. Based on this information, the fee of $9,732 per individual well, with $9,592 used in support of the consolidation program (and $140 for Kern County Public Health Services Department staff costs) is reasonable. Courts have upheld fee mitigation programs if they are "part of a reasonable plan of actual mitigation that the relevant agency commits itself to implementing." Anderson First Coalition v. City of Anderson (2005) 130 Cal.App.4th 1173, 1188.

0005-39

The comment asserts that the County should update its analysis and consider additional feasible mitigation, including revisiting previously rejected suggestions for mitigation. To the extent that commenters advocate that the County should consider their suggestions as a policy matter, this comment is not related to the CEQA process. The comment is noted for the record and will be provided to the decision-makers.

When a court issues a writ of mandate directing that an EIR be supplemented or corrected, this "does not mean the Agency is required to start the EIR process anew. . . . Rather, the Agency need only correct the deficiency in the EIR . . . before considering recertification of the EIR." *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112. CEQA is designed specifically to avoid "endless rounds of revision and recirculation of EIR[s]." *Silverado Modjeska Recreation and Park District v. County of Orange* (2011) 197 Cal.App.4th 282, 303.

With regard to mitigation measures, supplemental CEQA review is required if new information of substantial importance, which was not known and could not have been known when the prior EIR was certified, shows that impacts would be substantially reduced by:

- Mitigation measures previously found not to be feasible that would in fact be feasible, but which project proponents decline to adopt; or
- Mitigation measures considerably different from those analyzed in the previous EIR, but which project proponents decline to adopt (CEQA Guidelines § 15162(a)(3)(C), (D)).

The commenters provide no such new information regarding considerably different mitigation measures, or mitigation measures previously found infeasible that new information shows are in fact feasible.

The commenters assert that the County should, to the greatest extent feasible, require use of produced water or reclaimed water for oil and gas activities in order to mitigate DAC water supply impacts. This proposal is not considerably different from Alternative 6, Recycled Water Alternative, previously evaluated (see Draft SSREIR Section 6.0, Alternatives, pp. 6-34–37), although Alternative 6 also contemplated use of treated produced water for agricultural irrigation). Under Alternative 6, oil and gas operators would be required to treat an amount of produced water equivalent to their use of high-quality water, with a reuse goal of 30,000 acre-feet per year.

As explained in Draft SSREIR pages 6-34–37 and in Global Response Alt-2 in the 2015 EIR, Volume 7, pages 7-365–367, Alternative 6 was determined to be infeasible. For some oilfield activities, such as drilling and abandonment work, fresh water is required to properly formulate the cement mixtures that are needed to safely drill and abandon wells. Steam generation for enhanced oil recovery operations also requires high-quality water supplies in order to avoid equipment corrosion or damage and potential chemical interactions. Use of produced water in oilfield operations can lead to increased need for equipment maintenance, as well as increased use of hazardous chemicals to enable operations with lower-quality water. Treatment of produced water for use in oil and gas operations requires specialized equipment, consumes energy, and generates waste. Transporting produced water to operational sites would also result in significant impacts such as aesthetic, agricultural, biological, and cultural resources, noise, and traffic impacts, from construction and operation of new infrastructure (e.g., pipelines and storage facilities) or from increased

truck trips where constructing infrastructure is infeasible. In addition, in its comment letter on the 2015 Final Environmental Impact Report (FEIR), CalGEM expressed concern that treating and reusing produced water, which is currently primarily disposed of by underground injection, may adversely affect the balance between production and injection that needs to be maintained to prevent subsidence in the Project Area.

The discussion of a domestic water quality use ban in the Draft SSREIR (p. 4.17-105, citing discussion in the Cawelo GSA Management Area Plan and the Westside District Water Authority Management Area Plan) raises issues that are also relevant to the commenters' proposed mitigation. Requiring operators to treat produced water to domestic or irrigation quality for oilfield activities that require higher-quality water supplies would require technologies, such as reverse osmosis, with significant capital and operational costs. Many Project Area oil and gas operators lack the technological expertise and economic capacity to treat produced water, and such requirements could reduce or preclude oil and gas activities and generate adverse economic and social consequences in the County. The County does not have produced water treatment and distribution facilities sufficient to produce and deliver higher-quality water to oil and gas operators throughout the Project Area. As a result, produced water would need to be treated to higher quality in new, energy-intensive facilities and delivered by truck to most of the Project Area, which would require additional permitting processes to avoid adverse secondary environmental impacts, including increased energy and vehicular use and GHG emissions.

To the extent that the commenters contend their proposal to use reclaimed water is considerably different from reusing produced water, the same considerations (except for underground injection and subsidence risk) generally apply. Fresh water is needed to avoid equipment corrosion or damage and potential chemical interactions. Using reclaimed water can also lead to increased need for equipment maintenance and use of hazardous chemicals. Treatment of reclaimed water would require construction of new facilities, consume energy and produce waste, and impose new technological and cost burdens on operators with adverse economic and social consequences in the County. Transporting reclaimed water to operational sites would also result in significant impacts as noted above.

For both produced and reclaimed water, it would not be reasonable or feasible to require construction of new treatments and transportation facilities and impose new technological and cost burdens on oil and gas operators, with adverse secondary environmental impacts as well as economic and social consequences in the County, in relation to the Project's use of a very small portion (less than 0.1 percent) of the groundwater used in the Central Valley portion of Kern County (Draft SSREIR, Appendix C, p. 24); the limited number and size of DACs within the Project Area (Draft SSREIR, Figure 4.17-2); and the fact that, although DWR data identified failure-susceptible wells at Project Area DACs, only one residential supply well was reported as actually having gone dry per the DWR's Dry Well Reporting web page (Draft SSREIR 4.17-34).

0005-40

The comment states that the County should consider any other potentially feasible measures to reduce oil and gas demand for high quality municipal and industrial (M&I) water. Please see response to Comment 0005-39 regarding the County's previous consideration of the Recycled Water Alternative (Alternative 6) and the need for high quality water use in oilfield operations. The commenters do not identify any other potentially feasible measures.

The comment also states that the SSREIR should be amended to discuss a plan for M&I water demand reduction that certain oil and gas operators would have been required to submit under former MM 4.17-2. The commenters object that this plan has not been publicly released by the County or industry. As the commenters acknowledge, former MM 4.17-2 was struck down by the Court of Appeal in 2020. Accordingly, the requirements of former MM 4.17-2 ceased to apply and the operators were not required to, and did not, submit the plan described in the mitigation measure.

0005-41

The comment states that the County should consider mitigating water supply impacts by developing its own program to reduce regional demand for M&I water by users other than the oil and gas industry, such as land purchase or incentive programs for farmers to fallow land or convert to less water-intensive crops. To the extent that commenters advocate that the County should consider their suggestion as a policy matter, this comment does not relate to the CEQA process. The comment is noted for the record and will be provided to the decision-makers.

In prior litigation, the trial court rejected the claim that the County was required to create its own agricultural mitigation bank program because it would require a major undertaking that would not be feasible or reasonable to mitigate limited impacts (*Vaquero Energy v. County of Kern* (2022) Case No. BCV-15-101645, Kern County Superior Court (June 7, 2022), p. 10). Similarly, creating a novel mitigation program for the County to require or incentivize M&I water demand reduction by farmers or other water users, other than oil and gas operators, would be a major undertaking requiring a lengthy public development process and delving into issues beyond the scope of the Project. The County would have to do all of the following:

- Develop an inventory of opportunities and select an appropriate set of actions and incentives.
- Determine the costs of such actions.
- Establish an appropriate fee structure.
- Establish an administrative mechanism for fee collections management and disbursement (and set fees to cover administration).
- Determine whether fees would be used for grants to farmers or others and/or for actions (such as land purchase) carried out by the County or third parties such as agricultural land banks.
- Set standards and procedures for grant administration if making grants.
- Enter into land transactions or other actions undertaken by the County.
- Establish a monitoring mechanism to ensure that fees are collected, funds paid out, and the actions completed.
- Evaluate potential environmental impacts from creation of the program.

This effort would require a separate project and would not be a reasonable and feasible investment of County resources in relation to the Project's use of a very small portion (less than 0.1 percent) of the groundwater used in the Central Valley portion of Kern County (Draft SSREIR, Appendix C, p. 24); the limited number and size of DACs within the Project Area (Draft SSREIR, Figure 4.17-2); and the fact that,

although DWR data identified failure-susceptible wells at Project Area DACs, only one residential supply well was reported as actually having gone dry per the DWR's Dry Well Reporting web page (Draft SSREIR, p. 4.17-34).

0005-42

The comment proposes that the County should consider directly mitigating water supply impacts by developing its own drinking water protection program to address de-watered domestic wells. To the extent that commenters advocate that the County should consider their suggestion as a policy matter, this comment does not relate to the CEQA process. The comment is noted for the record and will be provided to the decision-makers.

In prior litigation, the trial court rejected the claim that the County was required to create its own agricultural mitigation bank program because it would require a major undertaking that would not be feasible or reasonable to mitigate limited impacts (*Vaquero Energy v. County of Kern* (2022) Case No. BCV-15-101645, Kern County Superior Court (June 7, 2022), p. 10). Similarly, creating a novel mitigation program for the County to fund measures addressing dry wells in DACs, rather than through contribution to projects in an established program such as the SRWCB's Mandatory Consolidation Program, would be a major undertaking requiring a lengthy public development process and delving into issues beyond the scope of the Project. The County would have to do the following:

- Develop an inventory of DAC needs.
- Select an appropriate set of responsive actions and determine the costs of such actions.
- Establish an appropriate fee structure.
- Establish an administrative mechanism for fee collections management and disbursement (and set fees to cover administration).
- Determine whether fees would be used for grants to well and water system owners to undertake actions and improvements to their own wells and equipment and/or to fund actions carried out by County-retained or independent contractors.
- Set standards and procedures for grant administration if well and water system owners apply for grants.
- Obtain permission to work on equipment and land owned by others if carried out by the County.
- Establish a monitoring mechanism to ensure that fees are collected, funds paid out, and the work carried out.
- Evaluate potential environmental impacts from creation of the program.

This effort would require a separate project and would not be a reasonable and feasible investment of County resources in relation to the Project's use of a very small portion (less than 0.1 percent) of the groundwater used in the Central Valley portion of Kern County (Draft SSREIR, Appendix C, p. 24); the limited number and size of DACs within the Project Area (Draft SSREIR, Fig. 4.17-2); and the fact that, although DWR data identified failure-susceptible wells at Project Area DACs, only one residential supply

well was reported as actually having gone dry per the DWR's Dry Well Reporting web page (Draft SSREIR, p. 4.17-34).

0005-43

The commenters state that the Draft SSREIR's analysis and mitigation measures for the Temblor legless lizard (TLL) and Crotch's bumble bee (CBB) are inadequate. They assert that the SSREIR must be revised to include new significant information regarding the species and potential harm from oil and gas activities. Please refer to responses to Comments 0005-44 through 0005-50.

0005-44

The commenters assert that the SSREIR should be revised based on new information on the TLL to provide additional impact evaluation and reconsider mitigation measures appropriate for the species. They assert that new information from a 2024 study by Rose et al. titled *Digging into Detectability: Uncovering How Temperature Influences Detection Probability of the Fossorial Temblor Legless Lizard* (Rose Study) requires additional analysis and changes to the survey methodology for TLL in MM 4.4-1 (Rose et al. 2024). The commenters also argue that the SSREIR must provide additional analysis and increase the 50-foot buffer distance for TLL provided in MM 4.4-3.

When a court issues a writ of mandate directing a lead agency to supplement or correct an EIR, this "does not mean the Agency is required to start the EIR process anew. Rather, the Agency need only correct the deficiency in the EIR . . . before considering recertification of the EIR." *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112. The comment does not involve one of the three issues that the Court of Appeal required the County to address before considering certification of the SSREIR: use of agricultural conservation easements as mitigation, the multi-well health risk assessment, and water supply impact analysis. *V Lions Farming LLC v. County of Kern* (2024) Case Nos. F084763, F085102, F085220, Slip Opin. at 106 (Cal. Ct. App. 5th Dist. March 7, 2024). On the contrary, the Court of Appeal specifically rejected the claim that supplemental review was required for impacts to the TLL. *Id*., Slip Opin. at 87-97.

Under CEQA, supplemental review is not required unless:

- Substantial changes to the proposed project, or to the circumstances under which the project is undertaken, will require major revisions of the prior EIR due to new or substantially more severe environmental impacts; or
- New information of substantial importance is available, which was not known and could not have been known when the prior EIR was certified, shows that the project will have new or substantially more severe environmental impacts; or
- New information of substantial importance is available, which was not known and could not have been known when the prior EIR was certified, shows that mitigation measures or alternatives previously found infeasible, or considerably different from those analyzed in the prior EIR, would substantially reduce significant impacts, but the project proponents decline to adopt the mitigation measure or alternative (CEQA § 21166; CEQA Guidelines § 15162).

For reasons discussed in response to Comment 0005-45 regarding information on new detection locations and survey methodology for the TLL, and response to Comment 0005-46 regarding the mitigation measure buffer distance. The comments do not identify significant new information showing that the Project would have new or substantially more severe impacts on the species, or showing that considerably different mitigation measures rejected by project proponents would substantially reduce significant impacts.

0005-45

As the comment states, the Rose Study reports new detection locations for the TLL. However, this is not "significant new information" warranting supplemental review due to new or substantially more severe impacts. On the contrary, the new detections expand the TLL's range, as did the information from the study by Parham et al. (2019) previously cited by commenters in their comments on the SREIR and Addendum. The Parham study, p. 24, concluded that "the discovery of new sites for this species provide additional hope for its conservation," which remains true for the findings of the Rose Study.

In surveys from 2022 and 2023, the Rose Study found the TLL in multiple locations, including five new sites. Some detection locations were within the TLL's previously proposed range while others were at the edge of or outside that range (see Rose Study, p. 240, Figure 2). The caption of Figure 2 in the Rose Study notes that the "hypothesized range of Temblor legless lizard is from Parham et al. (2019)," indicating that the range characterized by the 2019 study was hypothetical, not definitive. All of the study's sample sites were in or within 10 kilometers of the hypothesized range (Rose Study p. 238). The study concludes that "[o]ur findings also expand the species' range beyond that hypothesized by Parham et al. (2019) into the foothills of the Diablo Range in southwestern Fresno County. It is likely that more localities outside the hypothesized range could be found by sampling habitat further outside this range. . . ." (Rose Study, p. 248). The authors note that "populations might persist in undisturbed habitat adjacent to human land uses" including oil and gas extraction, if the area is sufficiently large to support a viable population (Rose Study, p. 247). They also suggest that "[o]ne question for managers considering the status of the Temblor legless lizard is whether it is truly rare or whether the low occupancy rate in this study reflects the difficulty in identifying suitable habitat" and propose further studies to answer that question, as well as to refine sampling design to "increase the likelihood of documenting the species at new localities and acquire a better understanding of the abiotic and biotic conditions affecting its occurrence at macro- and microgeographic scales" (Rose Study, p. 248). "Much remains to be learned about the ecology and conservation status of Temblor legless lizards." *Id*.

Nothing in the Rose Study is inconsistent with information on the TLL previously discussed in the SREIR and considered by the Court of Appeal, which concluded that:

> the County did not draw an unreasonable inference when it determined that the information about the expanded range of the Temblor legless lizard was positive news and, thus, did not warrant inferring the impacts on the Temblor legless lizard would be more severe than the significant impact (without mitigation) identified in the 2015 EIR. Also, the statements in the 2019 Parham Study's recommendation for additional surveys and the study's many uses of the word "may" support the County's inference that the new information is not definitive (*V Lions Farming*, Slip Opin. at 96).

In addition, the comment notes that the Rose Study found TLL are more likely to occur at sites with loose or friable soils without high clay content, such as sandy or loamy soil, including sites near ephemeral streams that have loose soils suitable for burrowing. This too is not new information. See the Rose Study, p. 247, which cites previous studies that "emphasized the affinity for sandy soils" and reported that "[a]lluvial fans and washes are associated with loose, friable soils suitable for burrowing by Aniella," concluding that: "it is unsurprising that we found support for lower occupancy in sites with soils that had high clay content." See also 2015 EIR, p. 4.4-78, Table 4.4-36 (the TLL "[b]urrows in sandy or loose loamy soil and leaf litter of high moisture content under sparse vegetation").

With regard to mitigation measures, as noted above, supplemental CEQA review is required if new information of substantial importance, which was not known and could not have been known when the prior EIR was certified, shows that impacts would be substantially reduced by mitigation measures that are "considerably different" from those analyzed in the previous EIR, but that project proponents decline to adopt (CEQA Guidelines § 15162(a)(3)(D)). For the TLL, commenters contend that mitigation must be revised because the Rose Study found that multi-year surveys in late winter and early spring, when TLL detectability is highest, are necessary to determine whether a site is occupied by TLL.

Contrary to the commenters' claim, the Rose Study does not constitute "new information" that triggers supplementation under CEQA Guidelines § 15162(a)(3)(D). First, although the Rose Study provides new data and modeling analysis, it was already known that "researchers note that it often takes three to four years with a cover board in place before a legless lizard is detected" and that, in standard procedure for this species, "[c]over boards are typically. . . checked in the spring when [legless lizards] are most active. . . ." (Center for Biological Diversity 2021, pp.7–8; see also Parham et al. [2019], p. 7). The commenters (which include the Center for Biological Diversity) previously attached the TLL listing petition to their comments on the Addendum to the SREIR (August 2022) but did not raise an issue regarding multi-year or seasonal surveys in their comments or subsequent litigation claiming that supplemental analysis was required for the TLL.

Moreover, the Rose Study did not purport to design requirements for new TLL survey protocols, but was intended to address several relevant research objectives: 1) to quantify how environmental conditions influence the probability of detecting TLL, 2) to document new localities for the species, and 3) to obtain preliminary estimates of factors influencing the TLL's occurrence (Rose Study, p. 238). The main result of the study was the finding that "[d]etection probability was positively related to temperature during our late winter-early spring survey period…" (Rose Study, p. 237). But the study's surveys were limited to the period from mid-February to mid-April during two years, one of which had high rainfall, so effects on TLL detectability outside that period and during drier conditions remain to be determined in future research (Rose Study, p. 245).

The study includes modeling analysis, based on limited survey data (detections at 12 sites in two years), which predicts that "repeated surveys with nondetection can increase confidence that this fossorial lizard does not occur at a site" (Rose Study, p. 237). Nevertheless, the study found that "availability for detection was consistently high with minimal fluctuation within each year." *Id*. Moreover, the data reveal a high level of consistency between years: only one of the 10 sites where TLL were found in 2023 had been surveyed in 2022 without finding TLL (TLL were found at seven sites in both years, and two sites were first sampled in 2023). In 2023, no TLL were detected at two sites where they had been found in 2022, but only one of

those sites was undisturbed, while the other had been flooded and highly disturbed (Rose Study, p. 243). Thus, while the Rose Study (p. 245) hypothesizes that "surveys over multiple years might be needed to document the presence of Temblor legless lizards, particularly during droughts when conditions at the surface are unsuitable," the data do not appear to support the claim that multi-year surveys are essential. In addition, the Rose Study (p. 245) notes that "[i]ncreasing the number of cover boards used to sample each site would likely increase detection probability," suggesting that repeated surveys within a year or in multiple years are not the only means of improving results.

Commenters' proposed mitigation is not "considerably different" (CEQA Guidelines § 15162(a)(3)(D)) from mitigation already provided in the SSREIR. As a candidate for listing under the California Endangered Species Act, the TLL is subject to the SSREIR's mitigation measures for special-status species, as well as CDFW permitting requirements. CEQA Guidelines, Appendix B.IV(a), 14 CCR § 783.1(b). Those measures begin with surveys as provided in MM 4.4-1:

> A qualified biologist shall conduct a biological reconnaissance survey in potential special-status species habitat to advise the project proponent of potential project impacts, potential surveying needs, and advise on the need for focused special status surveys. Early consultation with United States Fish and Wildlife Service and California Department of Fish and Wildlife will also inform project proponents of additional recommendations. Based on the information gathered from the biological reconnaissance survey and any informal consultation with United States Fish and Wildlife Service and California Department of Fish and Wildlife, focused/protocol surveys shall be conducted by a qualified biologist consistent with protocol study timelines in advance of submittal of the permit application to determine the presence/absence of sensitive species protected by state and federal Endangered Species Acts and potential project impacts to those species. . . . The survey shall be conducted in accordance with the most current standard protocol of the United States Fish and Wildlife Service and California Department of Fish and Wildlife. The purpose of focused/protocol surveys is to confirm the presence or absence of any species listed as threatened or endangered under the federal Endangered Species Act, threatened or endangered under the California Endangered Species Act. . . . and to confirm the presence or absence of any other species considered "sensitive" under California Environmental Quality Act ("Sensitive Species"), and to identify and implement avoidance and minimization measures for such species. The surveys shall be conducted in accordance with all currently-applicable presence and absence survey and/or species protocols established by the United States Fish and Wildlife Service and the California Department of Fish and Wildlife ("Species Protocols"). . . . A biological monitor with the same qualifications as a qualified biologist shall be present during ground disturbing activities in project locations that have special-status species habitat or are adjacent to potential special-status species habitat. Within 30 days before any ground-disturbing activities in special-status species habitat, the qualified biologist shall conduct a predisturbance survey to record existing conditions of the site, determine if conditions have changed since the reconnaissance or focused/protocol surveys were conducted, and to determine where sensitive species avoidance buffers will be established (MM 4.4-1, Draft SSREIR, p. 1-54).

Thus, MM 4.4-1 provides multiple opportunities for TLL detection in reconnaissance surveys, focused/ protocol surveys if recommended by the qualified biologist or in consultation with federal and state regulatory agencies, predisturbance surveys, and monitoring during any ground disturbance in or near

suitable habitat. Surveys must be "consistent with protocol study timelines" and "conducted in accordance with the most current standard protocol of the United States Fish and Wildlife Service and California Department of Fish and Wildlife" and "all currently-applicable presence and absence survey and/or species protocols established by" those agencies. *Id*. Species survey methodologies are subject to change based on new scientific information, which MM 4.4-1 acknowledges and incorporates. Implementation of MM 4.4-1 will include survey timelines required by the expert regulatory agencies, including any protocols that may result from the Rose Study or future studies. It is not necessary or practical for MM 4.4-1 to provide the specific details of survey protocol requirements for each of many special-status species or to predict the specific details of future protocols (see CEQA Guidelines § 15126.4(a)(1)(B)). Instead, the measure requires compliance with the most current requirements of the expert regulatory and permitting agencies.

See also the letter from Julie Vance, Regional Manager, CDFW, to Keith Alvidrez, Kern County Planning and Natural Resources Department (May 2, 2024), included in the SSREIR in Appendix B, which states: "CDFW recommends that a qualified biologist conduct focused surveys for TLL and their requisite habitat features prior to any ground disturbance activities associated with the Project" which, together with other recommended measures, would be sufficient "to adequately mitigate for any development or ground disturbance that may result from the Project."

0005-46

The commenters assert that MM 4.4-3 should be revised to increase the buffer zone distance for TLL. In the SSREIR Section 4.18, Supplemental Analysis, the buffer zone requirement of MM 4.4-3 was modified to increase the required buffer distance for the TLL and other legless lizard species from 30 to 50 feet (see Draft SSREIR Section 4.18, Supplemental Analysis, pp. 4.18-11–12). The commenters assert that the increased 50-foot buffer distance is still inadequate, lacks support, and must be revised to further extend the distance.

In support of a greater buffer distance, the commenters cite information on the TLL and impacts to the species from their petition for TLL listing under the state Endangered Species Act and from the CDFW's evaluation of the listing petition. This information is not new, as the commenters previously submitted both documents in comments on the Addendum, and they were included in the record considered by the Court of Appeal in upholding the County's determination that there was no new information warranting additional CEQA review for the TLL. Moreover, while the commenters previously asserted that the SEIR must be updated "to consider feasible mitigation measures, such as avoidance of legless lizard habitat" (*V Lions Farming*, Slip Opin. at 89), they did not object to the SREIR's 30-foot buffer distance. Having failed to raise the issue previously, and in the absence of any relevant new information, they cannot now maintain that the greater 50-foot buffer distance in the SSREIR is inadequate (*Silverado Modjeska Recreation and Park District v. County of Orange* (2011) 197 Cal.App.4th 282, 303 [CEQA is designed to avoid "endless rounds of revision and recirculation"]).

As stated in the Draft SSREIR (see Section 4.18.1.2, Biological Resources, p. 4.18-11), mitigation measures related to biological resources were informed by consultation with expert agencies, including CDFW. The determination to increase the buffer distance to 50 feet was based on CDFW consultation in response to the Notice of Preparation for the SSREIR. See the letter from Julie Vance, Regional Manager, CDFW, to Keith

Alvidrez, Kern County Planning and Natural Resources Department (May 2, 2024), included in the Draft SSREIR in Appendix B. The CDFW letter (p. 3) states:

> If a TLL is found prior to or during construction, CDFW recommends implementation of a minimum 50-foot no-disturbance buffer avoid take and potentially significant impacts. Any detection of TLL prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take. In the event that a TLL is detected during surveys, and a 50-foot no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to avoid take.

Consistent with the CDFW's recommendation, the buffer distance for TLL in MM 4.4-3 was increased to 50 feet. As the regulatory agency with expertise in protection of biological resources and special-status species, the CDFW characterized this measure, together with other recommended measures that are incorporated in the SSREIR as MM 4.4-1 and MM 4.4-2, to be sufficient "to adequately mitigate for any development or ground disturbance that may result from the Project." *Id*. The commenters do not cite information from the Rose Study or other new information in support of a greater buffer distance than the CDFW's recommendation and do not propose any specific greater distance as providing adequate mitigation.

The commenters also assert that MM 4.4-3 should be revised to clarify that the buffer zone requirement applies to any detection locations for TLL, not just to burrows or dens. MM 4.4-3 provides:

> Protective buffers shall be used, where effective in the opinion of the qualified biologist, to avoid any unauthorized incidental take of Protected Species, and to minimize any incidental take of Sensitive Species, by separating the planned disturbance area from any locations where the qualified biologist has detected the presence of Protected Species or Sensitive Species. . . . Protective buffer distances and other avoidance measures that may be implemented to avoid impacts to Protected Species or Sensitive Species must be consistent with the United States Fish and Wildlife Service and/or the California Department of Fish and Wildlife requirements, and shall be implemented and overseen by the qualified biologist.

In addition, MM 4.4-2 prohibits incidental take without a permit, which applies to the TLL as a candidate for state Endangered Species Act listing (14 CCR § 783.1(b)). Compliance with the mitigation measures and take permit conditions will ensure the appropriate application of buffer zones.

No revisions to MM 4.4-3 are necessary.

0005-47

The commenters assert that the SSREIR must be revised to incorporate new survey protocols for the CBB, as detailed in the CDFW report titled "*Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*" (CDFW CBB Report) (CDFW 2023). The commenters also assert that the 50-foot buffer distance is inadequate and must be revised to extend the distance.

The CBB was identified as a candidate for listing as endangered or threatened under the California Endangered Species Act on September 30, 2022. As a candidate species, the CBB is subject to the

SSREIR's mitigation measures for special-status species, as well as CDFW permitting requirements (CEQA Guidelines, Appendix B.IV(a), 14 CCR § 783.1(b)). Accordingly, discussion of and mitigation for the CBB was provided in the Draft SSREIR Section 4.18.1.2, pp. 4.18-11–14, 4.18-22. In addition, biological resource mitigation measures carried forward from the 2015 EIR and the SSREIR that apply to all special status species apply to the CBB as a candidate species. Those mitigation measures include MM 4.4-1, which provides extensive survey requirements for special status species.

As previously discussed, supplemental CEQA review is required if new information of substantial importance, which was not known and could not have been known when the prior EIR was certified, shows that impacts would be substantially reduced by mitigation measures "considerably different" from those analyzed in the previous EIR, but which project proponents decline to adopt (CEQA Guidelines § 15162(a)(3)(D)).

The survey protocol is not "significant new information" warranting supplemental review, due to new or substantially more severe impacts; nor are the commenters' proposed mitigation measures "considerably different" (CEQA Guidelines § 15162(a)(3)(D)) from mitigation already provided in the SSREIR.

The mitigation measures for special status species begin with surveys as provided in MM 4.4-1. MM 4.4-1 provides multiple opportunities for CBB detection in reconnaissance surveys, focused/protocol surveys if recommended by the qualified biologist or in consultation with federal and state regulatory agencies, predisturbance surveys, and monitoring during any ground disturbance in or near suitable habitat. Surveys must be "consistent with protocol study timelines" and "conducted in accordance with the most current standard protocol of the United States Fish and Wildlife Service and California Department of Fish and Wildlife" and "all currently-applicable presence and absence survey and/or species protocols established by" those agencies (*Id)*. Species survey methodologies are subject to change based on new scientific information, which MM 4.4-1 acknowledges and incorporates. Implementation of MM 4.4-1 will include requirements identified by the expert regulatory agencies, including the CBB survey protocols identified by the CDFW in the CDFW CBB Report and any other protocols that may result from new or additional information. It is not necessary or practical for MM 4.4-1 to provide the specific details of survey protocol requirements for each of many special-status species (see CEQA Guidelines § 15126.4(a)(1)(B)). Instead, the measure requires compliance with the most current requirements of the expert regulatory and permitting agencies.

See also the letter from Julie Vance, Regional Manager, CDFW, to Keith Alvidrez, Kern County Planning and Natural Resources Department (May 2, 2024), included in the SSREIR in Appendix B. The CDFW letter (p. 4) states "CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023) during the blooming period immediately prior to ground disturbing activities associated with the Project." MM 4.4-1 incorporates this recommended methodology that, together with other recommended measures that are incorporated in the SSREIR in MM 4.4-2 and MM 4.4-3, would be sufficient "to adequately mitigate for any development or ground disturbance that may result from the Project."

0005-48

The commenter asserts that MM 4.4-3 should be revised to increase the buffer zone distance for CBB and is inadequate to protect the CBB's foraging habitat or nest from project activities. As stated in the SSREIR (see Supplemental Analysis, Section 4.18.1.2, Biological Resources, p. 4.18-11), biological resources mitigation measures were informed by consultation with expert agencies, including the CDFW. The determination to use a 50-foot buffer distance was based on CDFW consultation in response to the NOP for the SSREIR. See the letter from Julie Vance, Regional Manager, CDFW, to Keith Alvidrez, Kern County Planning and Natural Resources Department (May 2, 2024), included in the SSREIR in Appendix B. The CDFW letter (p. 4) states:

> If CBB is detected, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Consistent with the CDFW's recommendation, the 50-foot buffer distance for CBB was included in MM 4.4-3. As the regulatory agency with expertise on protection of biological resources and special-status species, the CDFW characterized this measure, together with other recommended measures that are incorporated in the SSREIR as MM 4.4-1 and MM 4.4-2, to be sufficient "to adequately mitigate for any development or ground disturbance that may result from the Project."

The commenters also assert that MM 4.4-3 should be revised to clarify that the buffer zone requirement will be established around any detection locations of CBB, nest sites, and overwintering sites. MM 4.4-3 provides:

> Protective buffers shall be used, where effective in the opinion of the qualified biologist, to avoid any unauthorized incidental take of Protected Species, and to minimize any incidental take of Sensitive Species, by separating the planned disturbance area from any locations where the qualified biologist has detected the presence of Protected Species or Sensitive Species. . . . Protective buffer distances and other avoidance measures that may be implemented to avoid impacts to Protected Species or Sensitive Species must be consistent with the United States Fish and Wildlife Service and/or the California Department of Fish and Wildlife requirements, and shall be implemented and overseen by the qualified biologist.

In addition, MM 4.4-2 prohibits incidental take without a permit, which applies to the CBB as a candidate for California Endangered Species Act listing (14 CCR § 783.1(b)). Compliance with the mitigation measures and take permit conditions will ensure the appropriate application of buffer zones.

0005-49

The commenters assert that compensatory mitigation in the form of permanently protected mitigation lands for the loss of suitable CBB habitat is required, consistent with the CDFW's recommendations for other projects that cause the loss of CBB nesting and foraging habitat CBB.

As previously stated, the CBB is subject to the SSREIR's mitigation measures for special-status species, as well as CDFW permitting requirements. MM 4.4-15 provides general compensatory mitigation for ground disturbance impacts to biological resources at a mitigation ratio of 1:1 (1 acre of new ground disturbance requires 1 acre of mitigation) except in Tier 1 areas that contain existing disturbance of 70 percent or greater, which is mitigated at a 1:0.5 ratio. However, this is a general mitigation measure for ground disturbance impacts and does not specify mitigation ratios for individual species. MM 4.4-15 notes that permits or authorizations from the CDFW and the U.S. Fish and Wildlife Service (USFWS) may include compensatory mitigation acreage requirements, and MM 4.1-2 requires compliance with CDFW and USFWS incidental take authorizations that include such requirements. If the CDFW and/or USFWS determine that a higher ratio of compensatory mitigation is required, the expert agencies' requirements will apply. Additionally, MM 4.4-1 states "Early consultation with United States Fish and Wildlife Service and California Department of Fish and Wildlife will also inform project proponents of additional recommendations." Additional requirements or recommendations will be provided by the expert regulatory agencies, including the need for compensatory mitigation. It is not necessary to provide the specific details of a mitigation measure during a project's environmental review when it is impractical or infeasible. See CEQA Guidelines § 15126.4(a)(1)(B). Instead, the measure requires compliance with the most current requirements and consultation with the expert regulatory and permitting agencies.

Moreover, it appears that the CDFW recommendation of compensatory mitigation for CBB at a 3:1 ratio for one project, as quoted by the commenters, was specifically required due to "the absence of information regarding the compensatory mitigation site" and may not apply more broadly.

See also the letter from Julie Vance, Regional Manager, CDFW, to Keith Alvidrez, Kern County Planning and Natural Resources Department (May 2, 2024), included in the Draft SSREIR in Appendix B. The CDFW provided recommendations that have been incorporated into the SSREIR mitigation measures and would be sufficient "to adequately mitigate for any development or ground disturbance that may result from the Project."

0005-50

The commenters assert that the SSREIR should evaluate and mitigate air pollution threats to CBB. Section 4.3, Air Quality, of the Draft SSREIR describes air quality impacts that would result from implementation of the Project and related amendments to the Ordinance, and future development of oil and gas resources pursuant to the Project, and mitigation measures that would reduce these impacts, if necessary. Mitigation measures are included in Section 4.3, including MM 4.3-8, and the Oil & Gas Emission Reduction Agreement (OG-ERA) will offset Project emissions of NO_X, PM_{10}, $PM_{2.5}$, and reactive organic gases, to the extent feasible (Draft SSREIR, pp. 4.3-131–145.)

The commenters cite studies showing that air pollutant concentrations can affect other pollinator species, and speculate that localized concentrations of air pollutants near oil and gas operations could rise to levels affecting the CBB. However, the comments cite no evidence to support this claim. The studies cited by the commenters assess effects of ambient regional pollutant levels, not localized effects. While the studies indicate that even moderate levels of ozone and NO_X can adversely affect beneficial invertebrates, they do not analyze effects of pollutant concentrations on these species in proximity to oil and gas operations. In

addition, as discussed above, MM 4.1-3 requires a 50-foot buffer distance (setback) for disturbance impacts to the CBB, which would also reduce localized exposure to pollutants.

While some of the studies—in particular, a 2024 "meta-analysis" of multiple studies—are new, the fact that air pollutants can affect pollinator species is not new information that would trigger supplemental review per CEQA Guidelines § 15162. The "meta-analysis" study reviews individual studies dating back at least to 1995, demonstrating that information was known or could have been known with the exercise of reasonable diligence at the time the previous EIRs were certified (original EIR certified in 2015 and SREIR certified in 2021). See "References" in Ryalls et al. (2024); these include Holopainen et al. (1995); Grodzki et al. (2004); Valkama et al. (2007); Gao et al. (2008); and Zvereva and Kozlov (2010).

More generally, the potential impact of air pollution on biological resources is not one of the three issues that the Court of Appeal decision and the trial court's Fourth Writ Judgment directed the County to analyze, nor did the commenters include this issue in their claims regarding biological resources impacts in the prior litigation. Res judicata prohibits re-litigation of CEQA claims that were, or could have been, previously adjudicated (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165). When a court issues a writ of mandate directing that an EIR be supplemented or corrected, this "does not mean the Agency is required to start the EIR process anew. . . . Rather, the Agency need only correct the deficiency in the EIR . . . before considering recertification of the EIR" (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112).

0005-51

This comment regarding the requirements for a subsequent or supplemental analysis following the initial certification of an EIR is introductory. Please see responses to Comments 0005-52 through 0005-74.

0005-52

The comment asserts that the Draft SSREIR fails to address carbon capture and storage (CCS) projects as a new category of oilfield activity. This comment is introductory and no responses is necessary. Please see responses to Comments 0005-53–56.

0005-53

The comment notes that three CCS projects currently are planned to be located in oilfields within the Project Area. As the comment acknowledges, the three projects cited by the comment are at different stages of development: The Carbon TerraVault I project has been approved by the Board of Supervisors based on a certified EIR; the CarbonFrontier project has not been adopted, but an EIR has been circulated as a draft but not considered by either the Planning Commission or the Board of Supervisors, and no hearings are scheduled; and the Kern River Eastridge project has been suspended for processing by request of the applicant. If CCS projects constituted a category of oilfield activity under the Project, there would have been no need for separate EIRs that were prepared for the Carbon TerraVault-1 and CarbonFrontier projects.

The comment also notes the prospect of additional future CCS projects in Kern County. The County has an interest in future CCS development, as discussed in a technical report prepared for the County and cited by the commenters, but the discussion in that report is on a conceptual level only. See the report prepared by

Blue Engine, *Envisioning A Carbon Management Business Park* pages ii-iii (Blue Engine 2023). The report provides a "pre-feasibility analysis for a conceptual carbon management industrial park. . . . The purpose of the report is not to endorse or advise a specific strategy of development of a carbon management business park, but to provide a sufficient summary of publicly available information on these industries to allow area property owners, private investors, and the broader community to make their own well-informed strategic development plans" (Blue Engine 2023). No such projects have been planned, designed, or developed to the point of concrete proposals. The County has no special ordinance or financial commitment to any CCS project; all CCS would be proposed by individual project applicants requiring discretionary actions for consideration and would have separate EIRs.

The commenters assert that the Draft SSREIR must address environmental impacts from construction and operation of CCS facilities either as direct impacts of the Project or in an updated analysis of cumulative impacts. This comment introduces subsequent comments, and no responses is necessary. Please see responses to Comments 0005-54–56.

0005-54

The commenters contend that CCS projects located in Project Area oilfields constitute a new category of oilfield activity that falls within the scope of language in the Project Description in the Draft SSREIR. Therefore, the commenters claim, impacts from such CCS projects are direct impacts of the Project that must be considered in the Draft SSREIR.

The CCS projects are separate projects that require (and in the case of Carbon Terravault I, have received) separate CUPs and CEQA review by the County, independent of the Project. The comment selectively quotes part of a sentence in the Project Description that refers to oilfield "ancillary facilities" such as "gas. . . separation and treatment process[es] and related facilities" (Draft SSREIR, p. 3-56). This partial quotation is out of context and misleading. The full quotation on Draft SSREIR p. 3-56 and the ensuing discussion makes clear that the description of "oil, gas, and produced water separation and treatment process and related facilities" refers to hydrocarbon natural gas, not carbon dioxide (CO_2), and that the Project's ancillary facilities consist of oil and gas production facilities, not CCS facilities. See Draft SSREIR pages 3-52–61 and 52-67–77, which identify a list of Project ancillary facilities: access roads, electrical distribution lines and substations, treatment facilities that separate oil and gas from produced water, produced water treatment facilities, steam generators, tanks, pipelines, sumps, evaporation ponds and percolation ponds, produced water injection wells, fencing, and administrative buildings. That list does not include CCS projects. The Director of Planning and Natural Resources has been delegated the authority in Title 19 of the Ordinance to determine the interpretation of the Ordinance. CCS has been interpreted as requiring a Conditional Use permit and has not been classified as ancillary or accessory to oilfield activities in any department memo, staff report or other document. The Project Description does include Class II injection wells permitted by the EPA for injection of CO_2 for purposes of enhanced oil recovery (EOR) (see Draft SSREIR, pp. 3-70, 3-73–75). However, the use of CO_2 captured by and stored at CCS facilities for EOR is prohibited by state law (Public Resources Code § 3132(b) (SB 1314)), and the Project Description does not include the Class VI injection wells and facilities that are utilized for CCS purposes that are exclusively permitted by the EPA and not subject to CEQA. Please see also response to Comment 0005-74 regarding EOR and CCS.

0005-55

Commenters assert that, if CCS projects are not a new category of oilfield activities within the Project Description scope, they must be analyzed in the Draft SSREIR as contributors to cumulative impacts together with the Project.

As defined in CEQA, a cumulative impact is an impact "created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts" (CEQA Guidelines § 15130(a)). Cumulative impacts may be discussed in less detail than project-specific impacts, and the discussion should reflect the severity of the cumulative impacts and the likelihood of their occurrence, guided by standards of practicality and reasonableness (CEQA Guidelines §15130(b)).

When specific information about the impacts of potential future cumulative development is not available, an EIR is not required to speculate about cumulative impacts that might occur (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 277). "[W]here future development is unspecified and uncertain, no purpose can be served by requiring an EIR to engage in sheer speculation as to future environmental consequences*." City of Maywood v. Los Angeles Unified School Dist*. (2012) 208 Cal.App.4th 362, 397-98; see also *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1127 ("mere awareness of proposed expansion plans or other proposed development does not necessarily require the inclusion of those proposed projects in the EIR. Rather, these proposed projects must become 'probable future projects'" in order to be considered in cumulative impact analysis). The prospect of potential future CCS projects as discussed in Blue Engine (2023) report is too speculative for analysis. No such projects have been planned, designed, or developed to the point of concrete proposals. Accordingly, speculative potential future CCS projects are not "reasonably foreseeable probable future projects" for cumulative impacts purposes.

The commenters also refer to three CCS projects – the Carbon Terravault I, Carbon Frontier and Kern River Eastridge CCS projects – that have completed or commenced environmental review. The Carbon TerraVault I and CarbonFrontier Projects are considered "reasonably foreseeable future projects" for cumulative impacts purposes (*Gray*, 167 Cal.App.4th at 1127-28). Processing has been suspended on the Kern River Eastridge project at the request of the applicant. See also response to Comment 0005-53. These projects would utilize existing underground storage formations to receive CO_2 and would involve a limited amount of drilling for a small number of new or modified wells for CO_2 injection, construction or modification of processing facilities and pipelines, and plugging and abandonment of existing oil and gas wells penetrating the CO_2 storage formation.

An EIR may evaluate cumulative impacts using either of two methods: (1) " A list of past, present, and probable future projects producing related or cumulative impacts"; or (2) "A summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect" such as "a general plan, regional transportation plan, or plans for the reduction of greenhouse gas emissions" (CEQA Guidelines § 15130(a)(1)(A), (B)). Factors considered in analysis using the list method (CEQA Guidelines § 15130(a)(2)) do not apply when using the projections method.

The Draft SSREIR's cumulative analysis uses method (2), the projections approach, which includes both the Kern County General Plan and the regional growth plan and projections included in the Kern County

Council of Governments Regional Transportation Plan/Sustainable Communities Strategy (Draft SSREIR, pp. 3-92–93). Accordingly, the Draft SSREIR's cumulative impact analysis does not, and is not required to, identify or analyze impact contributions from individual projects, as would be required using the list method. In general, where the contribution to a cumulative impact from CCS projects is generic and not distinct from that of other types of industrial development projects, it is not necessary to specifically call out CCS projects in the cumulative analysis.

The commenters contend that CCS facilities may pose new or substantially more severe GHG impacts because stored CO_2 may escape, either through oil and gas well penetrations into the storage formation or due to seismic events induced by produced water injection. Each of the two reasonably foreseeable future CCS projects proposes to capture and store CO_2 from various oilfield operations. The objective of these projects, enforced through federal regulatory requirements, is to confine captured CO_2 from oilfield operations in perpetuity within geological formations, with the net effect of reducing GHG emissions and climate impacts. (Although at a future date, additional projects could be developed to store CO2 from other sources, such potential future projects are speculative at this time and would be subject to separate environmental review and permitting processes.) As extensively discussed in the EIR for the Carbon TerraVault I project, CCS project permit conditions, regulatory requirements and mitigation measures would greatly reduce the likelihood of CO_2 escaping in the scenarios described by the commenters. In the California Air Resources Board's 2022 Scoping Plan for Achieving Carbon Neutrality, CCS is identified as one of the strategies for carbon removal and sequestration that is essential to meeting the state's targets for climate neutrality, GHG emission reductions, CO_2 capture and carbon removal and is reasonably expected to reduce region-wide and statewide GHG emissions. However, the small possibility of a CO_2 release from storage due to unforeseen events or equipment failure remains. See the Final Recirculated Environmental Impact Report, Carbon TerraVault I (Kern County), pp. 7-35–50, 7-59–79, Responses to Comments 5, Greenhouse Gas Impacts, and 7, Geological and Induced Seismicity Risk.

For Project GHG emissions, the 2015 EIR provided analysis of and mitigation for Impact 4.7-3, Cumulative Greenhouse Gas Emission Impacts, using the projections method of cumulative impact analysis based on regional GHG emission forecasts. The analysis determined that the impact was significant and unavoidable with mitigation (2015 EIR, pp. 4.7-42–45). Since the climate impact of GHG emissions is inherently cumulative, as the result of emissions from many sources, the analysis of Impacts 4.7-1 and 4.7-2 is also relevant; see the 2015 EIR, page 4.7-43. As discussed under Impact 4.7-1, all significant Project GHG emissions are subject to the statewide GHG Cap-and-Trade program. Further, as discussed under Impact 4.7-2, the Project is anticipated to be consistent with the adopted California Climate Change Scoping Plan, the state GHG Cap-and-Trade Program, and other applicable adopted standards and regulations (*Id*). The analysis and conclusions are not altered by the possibility that a quantity of CO_2 originating from oilfield operations in the first place, captured and stored at CCS facilities, may be released from storage in the event that the scenarios envisioned by the commenters occur.

Moreover, oil and gas activities that the County approves under the Revised Ordinance (2025 A) are not expected to contribute to CO_2 releases from confining formations, because CCS regulatory requirements and permit conditions prohibit drilling new wells or injecting anything other than CO_2 into the formation. An EIR should not discuss cumulative impacts "which do not result in part from the project evaluated in the EIR" (CEQA Guidelines § 15130(a)(1)). Any existing wells that penetrate CO_2 confining formations must be surveyed, assessed, and permanently plugged and abandoned or, if necessary, reabandoned prior

to any CO_2 injection pursuant to federal requirements for CCS Class VI injection permitting (40 Code of Federal Regulations [CFR] § 146.84). To the extent that existing wells may nevertheless provide conduits for CO_2 escape from storage, such existing wells constitute baseline conditions. In preparing an EIR, the lead agency must distinguish the proposed project (the future action with the potential to change the environment) from the environmental setting (physical conditions that already exist independent of the proposed project). Evaluation of impact significance and mitigation measures is required only for impacts of the project, not for baseline conditions. See CEQA Guidelines §§ 15125(a), 15126.2(a); see also response to Comment 0005-64 regarding the distinction between wells permitted by the County pursuant to the Ordinance, referred to herein as "Project wells" and existing baseline non-Project wells.

Federal Class VI regulations require CCS permit applicants to demonstrate that seismic activity will not compromise subsurface containment of stored CO_2. 40 CFR § 146.82(a)(3)(v). Federal Class VI regulations also require CCS permit applicants to complete site characterization requirements to ensure the geology in the project area can receive and contain the CO_2 within the zone where it will be injected, including that the area is free of faults and fractures and that induced seismicity is not a concern. 40 CFR § 146.83(a)(2). Regarding the comment on induced seismicity by produced water injection, this issue has been studied extensively by the California Council on Science and Technology (CCST) and was evaluated in the Final 2015 EIR. See Final 2015 EIR, Global Response GEO-1, CCST: Produced Water and Earthquake Risk, pages 7-260–263, discussing two CCST reports, *Advanced Well Stimulation Technologies in California* (CCST 2014) and *An Independent Scientific Assessment of Well Stimulation in California, Potential Environmental Impacts of Hydraulic Fracturing and Acid Stimulations* (CCST 2015). In these reports, which included evaluation of produced water injection, the CCST found that the likelihood of induced seismicity due to produced water injection in California is low for several reasons. The zones at which the rocks are rigid enough to accumulate enough stress to cause significant earthquakes are relatively deep in California, and significantly deeper than the oil and gas development and produced water disposal zones. Oil and gas production in California occurs in sedimentary basins, which are less susceptible to induced seismicity from produced water injection. Typical volumes injected per well in California are less than those associated with operations in other parts of the country where induced seismicity has occurred, and operation of injection wells has had little effect on seismicity rates in Kern County.

0005-56

The commenters further assert that the Draft SSREIR should address the contribution to cumulative impacts from potential future sources of CO_2 stored in CCS projects, such as Lone Cypress Energy Service's Blue Hydrogen project and other potential future facilities described on the County's website, *What is a Carbon Management Business Park?* at https://cmbp.kernplanning.com/.

Projects must become "probable future projects" in order to require consideration in cumulative impact analysis. CEQA Guidelines § 15130(b); *Gray,* 167 Cal.App.4th at 1127. Speculative future projects are not considered reasonably foreseeable. The information on the County's website regarding categories of potential future facilities that may become sources of CO_2 stored at CCS projects in the County is on a conceptual level only and does not include any projects that have been planned, designed, or developed to the point of concrete proposals. Moreover, as there are no currently operational CCS projects in California, there are no CCS-dependent CO_2 source projects on which to base a non-speculative cumulative impacts analysis.

As the comment notes, the County issued an NOP for an EIR for Lone Cypress Energy Services' Blue Hydrogen Project. However, the Lone Cypress project is no longer a proposed project, as the proposal was withdrawn. The County has ceased environmental review of the project, and it is speculative and uncertain whether the applicant may resubmit the project at a future date and whether, if so, the project ultimately may be approved and constructed. To the extent that the Lone Cypress project nevertheless may be considered a "reasonably foreseeable future project" due to the previous issuance of the NOP, its contribution to cumulative impacts is included together with that of other projects in the projections method of cumulative impact analysis in the Draft SSREIR. See response to Comment 0005-55.

0005-57

The commenters assert that the SSREIR should update the 2015 EIR's analysis of GHG emissions and global climate change impacts to reflect the latest science related to climate change because new information is now available. Specifically, the commenters claim that significant new information is available about the impacts of methane emissions from oil and gas operations and that amendments to the state's methane regulations also constitute new information that should be evaluated in the SSREIR.

The comment does not raise an issue with regard to the SSEIR's impacts analysis, mitigation measures, or alternatives. The Court of Appeal's 2024 decision rejected all claims except for three areas in which the SREIR did not comply with CEQA: (1) mitigation for conversion of agricultural land; (2) adequacy of the Multi-Well Heath Risk Assessment; and (3) analysis and mitigation for water supply impacts on disadvantaged communities. The court directed the County to set aside its certification of the SREIR and approval of the Ordinance and to prepare a supplemental CEQA review correcting the three defects before bringing an oil and gas permit streamlining ordinance back to the Board of Supervisors for consideration. This comment does not address one of the three issues that the Court of Appeal decision and the trial court's Fourth Writ Judgment directed the County to analyze.

When a court issues a writ of mandate directing that an EIR be supplemented or corrected, this "does not mean the Agency is required to start the EIR process anew. Rather, the Agency need only correct the deficiency in the EIR . . . before considering recertification of the EIR." *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112. CEQA is designed specifically to avoid "endless rounds of revision and recirculation of EIR[s]." *Silverado Modjeska Recreation and Park District v. County of Orange* (2011) 197 Cal.App.4th 282, 303. A writ in a CEQA action directs "the public agency take specific action as may be necessary to bring the determination, finding, or decision into compliance with [CEQA]." CEQA § 21168.9(a)(3) (emphasis added). The fact that additional environmental assessment is conducted for a limited issue "is not an occasion to revisit environmental concerns laid to rest in the original analysis." *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 949. This principle applies with full force when an EIR has been de-certified and additional environmental assessment has been required for a specific reason. See *Silverado Modjeska*, 197 Cal.App.4th at 297; *Ione Valley Land, Air, & Water Def. All., LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170 (citing *Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 324-27). Comments raising issues or questions with respect to the originally prepared EIR cannot require revisitation of that analysis (*Ione Valley*, 33 Cal.App.5th at 170).

To the extent that any of the comments raise issues related to climate change and GHG emissions based on facts arising after the 2015 EIR, the comments do not present significant new information that warrants revisiting the prior analysis. Under CEQA, a supplemental EIR is not required unless:

- substantial changes to the proposed project, or to the circumstances under which the project is undertaken, will require major revisions of the prior EIR due to new or substantially more severe environmental impacts; or
- new information of substantial importance is available, which was not known and could not have been known when the prior EIR was certified, shows that the project will have new or substantially more severe environmental impacts; or new information of substantial importance is available, which was not known and could not have been known when the prior EIR was certified, shows that mitigation measures or alternatives previously found infeasible, or considerably different from those analyzed in the prior EIR, would substantially reduce significant impacts, but the project proponents decline to adopt the mitigation measure or alternative (CEQA § 21166; CEQA Guidelines § 15162).

The commenters assert that additional studies contain new information highlighting the major role that fossil fuel production plays in bringing the earth closer to the serious consequences of climate change. The commenters reference the Climate Change 2023 Synthesis Report (IPCC 2023) but do not reference any specific information from that study. In any case, no supplemental analysis is warranted because the 2015 FEIR contains an extensive discussion of climate change, including the trend of rising temperatures and increasing wildfires, heat waves, and floods, and thoroughly evaluates the impact of the Project—that is, permitting of oil and gas development pursuant to the Ordinance—on climate change, including consistency with plans, policies, and regulations adopted for the purposes of reducing GHG emissions. See 2015 FEIR Global Response GHG-1: GHG Methodology and Emissions Estimates, pp. 7-263–271. None of the climate issues raised in the comment constitute new information or changed circumstance requiring supplemental environmental review, because the 2015 EIR (Section 4.7, Greenhouse Gas Emissions and Global Climate Change) fully disclosed and analyzed the Project's climate change impacts.

Additionally, climate change was expressly accounted for in the 2015 EIR as part of the environmental setting in the Greenhouse Gas Emissions and Global Climate Change chapter of the EIR. In particular, the 2015 EIR discloses that "research indicates that California should expect overall hotter and drier conditions with a continued reduction in winter snow (with concurrent increases in winter rains), as well as increased average temperatures, and accelerating sea-level rise. In addition to these changes, the intensity of extreme weather events is also changing. The impacts assessment indicates that extreme weather events, such as heat waves, wildfires, droughts, and floods are likely to be some of the earliest climate impacts experienced" (2015 FEIR, Vol. 1, at 4.7-9; see also SREIR, Responses to Comments 0009-102, 0009-109, 0009-110, and 0009-111).

Moreover, the 2015 EIR described a suite of mitigation measures to avoid, minimize, and mitigate the impacts of the Project on generation of GHG emissions and contributions to global climate change. With the implementation of MM 4.7-1 through 4.7-4, the Project-level impacts would be less than significant but the cumulative impacts on global climate change and plans for reduction of emissions would be significant

and unavoidable. No new information relating to climate change shows that the Project will have new or substantially more severe impacts than previously analyzed after mitigation.

0005-58

The commenters assert that new information about methane emissions from oil and gas operations demonstrates potentially significant impacts that would be substantially more severe than previously studied, requiring supplemental evaluation and mitigation. Impacts from increased methane concentrations in the atmosphere were analyzed and disclosed in the 2015 EIR. The EIR's chapter on Greenhouse Gas Emissions and Global Climate Change explains that methane is one of the "six substances" included in "[t]he standard definition of GHGs," the concentrations of which "have increased in the atmosphere since pre-industrial times." The EIR discloses that "[o]ver the last 50 years, human activities, such as growing rice, raising cattle, using natural gas, and mining coal, have added to the atmospheric concentration of CH_4 [methane]," along with "anthropogenic sources includ[ing] fossil-fuel combustion and biomass burning," and that atmospheric increases in concentrations of carbon dioxide, methane and nitrous oxide are the "main driver of climate change" (2015 DEIR, pp. 4.7-2–4.7-3). The EIR assigns a Global Warming Potential to methane and provides an estimate of the state's GHG emissions resulting from methane, as well as an estimate of the statewide oil and gas extraction GHG emissions from methane associated with fuel combustion from natural gas, associated gas, and distillate, and fugitive emissions from petroleum gas seeps, process losses, storage tanks, and wastewater treatment (2015 DEIR, pp. 4.7-2, 4.7-5). The EIR also disclosed the increase in methane emissions over time, stating that since 1750, methane "increased by 150%, from 722 parts per billion (ppb) to 1,803 ppb" (2015 DEIR, p. 4.7-2).

The GHG analysis in the EIR quantifies direct GHG emissions from permitted and non-permitted facilities, as well as combustion, venting, and fugitive sources associated with construction, well production and stimulation, and well abandonment. The analysis also includes emissions from vehicles used during well construction and operation. The analysis compares GHG baseline emissions for 2012 with emissions in 2035 under full project build out. The emissions estimate for 2035 includes all GHG emissions from construction and operation of the Project, including fugitive emissions and methane leakage. Emissions from the following GHGs were quantified as CO_2 equivalent in the GHG analysis: CO_2, methane (CH_4), nitrous oxide (N_2O), chlorofluorocarbons, sulfur hexafluoride (SF_6), hydrofluorocarbons, and perfluorocarbons. The EIR concludes that the Project would result in an overall increase in GHG emissions and that these GHG emissions would be potentially significant, but that impacts would be reduced to less than significant with mitigation. MM 4.7-1 through 4.7-4 in the 2015 EIR will ensure that all regulated sources are covered by and comply with the California Air Resources Board's (CARB's) cap-and-trade program and implement Best Performance Standards, and that GHG emissions not covered by CARB's cap-and-trade program or other mandatory GHG emission reduction measures are offset. In addition, each applicant must implement methods to recover for reuse or destroy methane. These mitigation measures collectively will ensure that GHG emissions from the Project are mitigated to a level of net-zero increase (2015 FEIR, Global Response GHG-1: GHG Methodology and Emissions Estimates, pp. 7-263–271).

Analysis of the Project's operational emissions concludes that emissions estimates "for the Project build-out in 2035 are expected to be a decrease from [business as usual] levels as regulatory initiatives are phased in to reduce GHG emissions from sources across the state. On a per-well basis, GHG emissions from oil production would be reduced over time due to GHG emission reductions required under multiple programs,

including California's GHG Cap-and-Trade Program, California's pending rule limiting methane emissions from oil and gas production, and implementation of the EPA's Reformulated Fuels Standard (RFS-2)" (2015 DEIR, p. 4.7-35). The 2015 FEIR explains how future well and oil and gas activity projections were conservatively derived. The operational activities baseline and associated analysis were developed during a period of time when oil was in the range of $100 per barrel. See 2015 FEIR GR-8: Future Well Projections; SREIR (October 2020), Response to Comment 44-240. The SREIR (October 2020) discusses how oil and gas exploration and production activity has fluctuated considerably over time and explains the various factors that have influenced oil and gas production activity, including the price of oil. See SREIR (October 2020), pp. 2-23, 2-24; see also SREIR (October 2020), Vol. 2, Appendix D, pages 55, 56. As of April 2025, according to the U.S. Energy Information Agency's Short Term Energy Outlook, the forecast price of Brent crude oil (a standard measure of oil prices) for 2025 is $68 per barrel, reflecting current economic uncertainties (EIA 2025)). In view of the recent circumstances affecting the price of oil and oil industry activities, including the aftereffects of the COVID-19 pandemic and economic uncertainties, the GHG estimations in the 2015 FEIR are even more conservative than they were at the time the FEIR was certified (SREIR responses to Comments 0009-151, 0010-38).

0005-59

The commenters assert that research indicates that some oil and gas well leaks are so-called "super-emitters," discharging many times more methane than other sources. There is no evidence that sources permitted under the Ordinance would qualify as super-emitters (see 2015 FEIR, pp. 7-263–271). The commenter cites a CARB study to imply that significant methane leaks from oil and gas operations in California are widespread. However, the purpose of the study is to provide data supporting the State's use of satellite technology to identify methane plumes statewide. Although 40 percent of identified leaks from the study's sample size were attributable to malfunctioning equipment, the study concluded that agriculture is the largest source of methane emissions in the state, and that:

> In California, methane is estimated to account for about 10% of all GHG emissions after accounting for differences in global warming potentials, and the intra-annual trend analysis from the CARB GHG inventory indicates that statewide anthropogenic methane emissions have plateaued over the past decade. Enteric fermentation and manure management, which are associated with dairies and livestock, are estimated to be responsible for over half of the State's total methane emissions. Landfills are estimated to contribute nearly 22 percent of the State's total methane emissions, and oil & gas (including production and distribution) is believed to contribute about 15 percent (CARB 2024).

The CARB report also noted that when methane plumes were detected, facility operators "were asked to identify the exact source of the emissions via on-the-ground surveys (if necessary), repair the source of emissions (if possible), and report their findings to CARB. Operators responded to these incidence reports 94 percent of the time. Oil and gas sector operators generally took action within a day or two and responded to CARB within two weeks" (CARB 2024).

For these reasons, information about methane emissions from oil and gas operations is not new significant information requiring supplemental review. See *Concerned Dublin Citizens v City of Dublin* (2013) 214 Cal.App.4th 1301 (the adoption of new guidelines for evaluation of GHG emissions was not significant

new information requiring further CEQA review because information about the potential effects of those emissions was known and could have been addressed in connection with the certification of the original EIR).

0005-60

Commenters assert that the SSREIR's analysis should be revised to take into consideration CARB's 2023 amendments to its Oil and Gas Methane Regulation. This is not significant new information requiring supplemental analysis. MM 4.7-3(b) in the 2015 DEIR requires compliance with "the expected California Air Resources Board methane regulation." In addition, MM 4.7-2 requires that applicants comply with "applicable greenhouse gas emission control and reduction regulations as these may be adopted or amended over time, to reduce, avoid, mitigate and/or sequester greenhouse gas emissions" (2015 DEIR, p. 1-49). Thus, Project activities will be required to comply with the updated regulations. In any case, regulatory changes do not automatically require supplemental CEQA review. See *Fort Mojave Indian Tribe v. Department of Health Services* (1995) 38 Cal.App.4th 1574, 1606; *Chaparral Greens v. City of Chula Vista* (1996) 50 Cal.App.4th 1134, 1149 (rejecting argument that a program EIR was required to address a regulatory change that listed a new species as threatened and compliance with the State's conservation guidelines because the impact of the Project on the threatened species "was fully discussed in the" EIR).

The commenters further suggest that CARB's methane regulations are inadequate and that the County should evaluate imposing its own mitigation measures for methane emissions. The commenters' concerns regarding inadequacies in CARB's methane regulations should properly be addressed to CARB in the rulemaking process. Regarding the CEQA impacts of global GHG emissions and climate change, to which methane emissions contribute, MM 4.7-3 is not the only mitigation measure that addresses methane. As a GHG, methane is covered by California's cap-and-trade program, which is incorporated in MM 4.7-1 and 4.7-2. In addition to the cap-and-trade program, MM 4.7-2 requires compliance with "other applicable greenhouse gas emission control and reduction regulations," and MM 4.7-4 requires offsets for GHG emissions not covered by the cap-and-trade program. Finally, independent of CARB's methane regulations, MM 4.7-3(a) requires applicants to "implement methods to recover for reuse or destroy methane existing in associated gas and casinghead gas" so as to "[r]ecover all associated gas produced from the reservoir via new wells, regardless of the well type, except for gas produced from wildcat and delineation wells or as a result of start-up, shutdown and maintenance activities (whether planned or unplanned), system failures, and emergencies in accordance with San Joaquin Valley Air Pollution Control District regulations (Rule 4401 and 4409), as this may be amended over time."

With regard to mitigation measures, supplemental CEQA review is required only if new information of substantial importance shows that mitigation measures that would substantially reduce significant impacts, but that project proponents decline to adopt, (i) are considerably different from those analyzed in the previous EIR, or (ii) were analyzed in the previous EIR and rejected as infeasible, but new information shows that the measures would in fact be feasible (CEQA Guidelines § 15162(a)(3)(C), (D)). The commenters have not proposed any specific mitigation for consideration nor provided any new information regarding mitigation measures for methane that are considerably different from those in the previous EIR or that were previously rejected as infeasible but are in fact feasible.

0005-61

Commenters state that idle wells leaking methane have been discovered in Kern County and that the SSREIR should be revised to address health risk due to methane leaks from idle wells. The comment does not distinguish between Project and non-Project wells. Leaks from idle wells that were not originally permitted by the County under the Ordinance are baseline conditions, not impacts of the Project. Only leaks from Project wells that subsequently become idle would be considered Project impacts. Please see response to Comment 0005-64.

0005-62

The comments assert that the SJVAPCD regulations are inadequate and do not apply to all oil and gas wells. The commenters state that the SSREIR should be revised to apply SJVAPCD Rules 4401 and 4409 to all oil and gas wells in Kern County.

The comment does not raise an issue with regard to the SSREIR's impact analysis, mitigation measures, or alternatives. The Court of Appeal's 2024 decision rejected all claims except for three areas in which the SREIR did not comply with CEQA: (1) mitigation for conversion of agricultural land; (2) adequacy of the multi-well HRA; and (3) analysis and mitigation for water supply impacts on disadvantaged communities. *V Lions Farming LLC v. County of Kern* (2024) Case Nos. F084763, F085102, F085220, Slip Opin. at 106 (Cal. Ct. App. 5th Dist. March 7, 2024). This comment does not address one of the three issues that the Court of Appeal decision and the trial court's Fourth Writ Judgment directed the County to analyze.

The scope of application of SJVAPCD rules is appropriately determined by the SJVAPCD. Moreover, MM 4.7-3.b requires compliance with the CARB methane rule. The EPA has concluded that "leaks associated with heavy oil production will generally emit less VOC" and that sources regulated by SJVAPCD are adequately covered by either the CARB methane rule or SJVAPCD Rule 4409 (EPA 2024).

0005-63

The commenters state that the SSREIR should be revised to address health risk due leaks of other air pollutants, such as volatile organic compounds (VOCs) and air toxics, that may leak from idle wells. Leaks from idle wells that were not permitted by the County under the Ordinance are baseline conditions, not impacts of the Project. Only leaks from Project wells that subsequently become idle would be considered Project impacts. Please see response to Comment 0005-64 regarding the distinction between baseline and non-baseline wells. Project fugitive emissions of VOCs are analyzed and discussed in the Draft SSREIR, pp. 4.3-53, 116. Air toxics are addressed the Draft SSREIR, pages 4.3-145–160, and in the HRAs performed for the Project.

0005-64

The commenters assert that new information regarding the numbers of idle and orphan wells in California and in Kern County shows that such wells will have substantially more severe impacts than previously understood, requiring supplemental CEQA review and modification of prior mitigation measures.

An idle well is a well that has not been officially plugged and abandoned, on which the operator has ceased all activity, including but not limited to drilling, production or injection. An orphan well is a well that has been deserted and has no viable operator or owner (2015 EIR, Section 11.2, Glossary, pp. 11-29, 11-34). Comment 0005-64 focuses on idle wells, and Comment 0005-65 focuses on orphan wells. This response to Comment 0005-64 also applies to Comment 0005-65.

Supplemental review is required if new information of substantial importance, which was not known and could not have been known when the prior EIR was certified, shows that the project will have new or substantially more severe environmental impacts (CEQA Guidelines § 15162). However, idle and orphan wells that were not permitted by the County pursuant to the Ordinance are existing conditions, not sources of Project impacts pursuant to CEQA. The existence and number of idle and orphan wells in Kern County are not a function of the Project. Instead, they are part of the environmental setting or baseline (see CEQA Guidelines §§ 15125(a), 15126.2(a)). In preparing an EIR, the lead agency must distinguish the proposed project (the future action with the potential to change the environment) from the environmental setting (physical conditions that already exist independent of the proposed project). Evaluation of impact significance and mitigation measures are required only for impacts of the project, not for aspects of the existing setting or baseline.

As explained by the California Supreme Court in *Communities for a Better Environment v. South Coast Air Quality Management Dist*. (2010) 48 Cal.4th 310 (*CBE*), "the baseline for CEQA analysis must be the 'existing physical conditions in the affected area' . . . , that is, the 'real conditions on the ground.'" *CBE* at 321 (quoting *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal. App. 3d 350, 354, and *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 121). Even where "actual development or activity had, by the time CEQA analysis was begun, already exceeded that allowed under the existing regulations," the existing conditions constitute the baseline (*CBE* at 321). "This is so even if the current condition includes unauthorized and even environmentally harmful conditions that never received, and, as a result of being incorporated into the baseline, may never receive environmental review" (*Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 234 Cal.App.4th 214, 249 (citing *Citizens for East Shore Parks v. State Lands Com.* (2011) 202 Cal.App.4th 549, 561).

The purpose of an EIR is to inform the decision-maker and the public about the potential consequences of the action the decision-maker is about to approve, and to explore feasible mitigation measures and alternatives to address the impacts resulting from that approval. CEQA is forward-looking, not remedial, and does not require consideration of impacts, mitigation measures or alternatives to address baseline conditions. In determining the baseline for purposes of the Project, the County took a conservative approach as discussed in the 2015 EIR, Section 2.6.2 on pages 2-21 to 2-23, and in Section 3.5 on pages 3-30 to 3-32; see also 2015 FEIR, Global Response GR-6. To the extent that new information indicates that the previous analysis may have undercounted the baseline number of idle and orphan wells present in the Project Area, the result would not be a substantially more severe environmental impact of the Project. The magnitude of an impact is determined by subtracting the magnitude of pre-project baseline conditions from the magnitude of post-project conditions. If new information about an environmental condition indicates a higher baseline, with no change in post-project conditions, subtracting a higher baseline from post-project conditions would result in less, not more, severe impacts.

By contrast, impacts associated with wells permitted by the County pursuant to the Ordinance and which subsequently become idle wells, are properly treated as impacts of the Project. Project wells that become idle are subject to the requirements of the Ordinance and mitigation measures in the Mitigation Monitoring and Reporting Program. Such wells must be properly plugged and abandoned by project applicants as required by CalGEM regulations. The Draft SSREIR, Chapter 3, Project Description also includes existing idle wells, which currently are baseline conditions, that become Project wells when they are reworked and reactivated as part of the Project (Draft SSREIR, p. 3-56, Reactivation of Idle Wells). However, the commenters present no new information on idle wells that are part of the Project as distinct from non-Project baseline wells.

The commenters cite information about increasing total idle well numbers in California and Kern County (but not Project idle well numbers) from CalGEM's August 2023 report on idle well data from 2020 and 2021 and from CalGEM's online database. While the latest idle well counts constitute new information since the Final SREIR was certified, the trend of increasing idle well numbers is not new information. As CalGEM's August 2023 report documents, idle well counts have consistently increased each year since reporting began in 2018, as reported in prior annual reports (CalGEM 2023, p.8). The commenters did not raise this issue in their prior litigation, and it is not one of the three issues that the Court of Appeal decision and the trial court's Fourth Writ Judgment directed the County to analyze. Thus, the issue is barred by res judicata, which prohibits re-litigation of CEQA claims that were, or could have been, previously adjudicated. *Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165. When a court issues a writ of mandate directing that an EIR be supplemented or corrected, this "does not mean the Agency is required to start the EIR process anew. . . . Rather, the Agency need only correct the deficiency in the EIR . . . before considering recertification of the EIR." *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112.

CalGEM's August 2023 report indicates that the increase in reported idle well numbers over time may be partly attributable to a change in reporting methodology, as well as to a worldwide decline in oil and gas demand (CalGEM 2023, p. 8). The report also demonstrates that the numbers of idle wells that have been plugged and abandoned, and the numbers of temporarily idle wells that have been reactivated, have increased since 2018. Moreover, the number of long-term idle wells has been fairly constant: 17,576 in 2018; 17,888 in 2021 (CalGEM 2023, p. 8).

Section 19.98.040(c) of the Revised Ordinance (2025 A) specifically limits the total numbers of wells permitted under the Ordinance to 2,697 new wells per year. Some of those wells may subsequently become idle wells, but the subset of Project wells that become idle, out of 2,697 new Project wells per year, represents only a small portion of the total number of idle wells in the County.

0005-65

The comment cites information from CalGEM and the CCST on orphan well numbers and remediation costs. The comment does not distinguish between Project and non-Project wells. Please see response to Comment 0005-64 regarding the distinction between non-Project baseline conditions and Project impacts.

An orphan well is a well that has been deserted and has no viable operator or owner (2015 EIR, Section 11.2, Glossary, pp. 11-29, 11-34). Wells permitted under the Ordinance must be properly plugged and

abandoned by project applicants. There is no reason to expect that, instead of complying with plugging and abandonment requirements, project applicants will desert significant numbers of Project wells for which they have obtained County approval and invested in compliance with mitigation under the Ordinance.

0005-66

The commenters assert that the SSREIR should include a mitigation measure requiring operators to plug a minimum number of idle wells per year. The comment does not distinguish between Project and non-Project wells. There is no basis to require mitigation for non-Project idle wells. Please see response to Comment 0005-64 regarding the distinction between non-Project baseline conditions and Project impacts. To the extent that the commenters advocate that the County should adopt mitigation for non-Project wells as a policy matter, this comment does not relate to the CEQA process. The comment is noted for the record and will be provided to the decision-makers.

CalGEM's idle well program, adopted pursuant to AB 2729, provides incentives for oil and gas operators to commit to plugging and abandoning their idle wells over a scheduled period of up to eight years, in exchange for exemption from certain testing and engineering analysis requirements,; or to adopt an Idle Well Management Plan that will eliminate idle wells in compliance with a specified schedule, in lieu of paying certain fees. The Legislature recently adopted additional requirements to strengthen CalGEM's program in AB 1866 (2024), including a requirement that Idle Well Management Plans provide for eliminating all idle wells, not only long-term idle wells, increasing the minimum percentages of idle wells that operators are required to eliminate each year, and increasing the fees for idle wells not subject to a management plan.

In addition, in response to comments on the 2015 EIR regarding concerns with existing idle and orphan wells, the County added a procedure by which members of the public can contact the County to report a well that they believe may be idle or abandoned, that requires the County to report this information to CalGEM, and to deny approvals for new well permits for operators whom CalGEM has determined are in violation of idle well permit regulations (see Final 2015 EIR, Section 7.1.3). In addition, a number of mitigation measures are designed to require or create incentives to reduce the environmental effects of existing legacy oil and gas facilities and activities. In some cases, these measures are triggered by attaching a proposed new well or facility to existing legacy equipment. In other cases, the measure creates an incentive for an oil and gas developer to rehabilitate already disturbed or degraded lands. Some of these measures are summarized below.

> MM 4.2-1: As amended in the SSREIR, this measure provides mitigation for farmland conversion impacts by requiring both agricultural easement protection for offsite farmland and removal of legacy oil and gas equipment, including wells, that is not being used or operated for its intended use and is not intended to be used or operated for oil and gas extraction or exploration. If the applicant's removal of its legacy equipment is not sufficient to provide 1:1 mitigation, then other legacy equipment owned by the applicant or owned by third parties on equivalent farmland in Kern County must be removed to meet the required amount.
>
> MM 4.2-2: This measure includes several components to protect crops and agricultural structures from oil and gas development on active agricultural lands. Subparts c., d., and e. regulate speed on

unpaved roads, require dust suppression on unpaved roads, and require measures to reduce tracking from unpaved roads to paved roads, respectively. To the extent that an existing unpaved road will be utilized for a well or other facility subject to site plan review under the Revised Ordinance (2025 A), compliance with these measures may reduce fugitive dust and seed from existing use of the road. Subpart i. of MM 4.2-2 requires that underground pipelines serving a well or other facility subject to site plan review under the Revised Ordinance (2025 A) be shown on the site plan and periodically inspected and maintained in accordance with the mitigation measures for hazards. To the extent that an existing underground pipeline will be utilized for a well or other facility subject to site plan review, compliance with this measures may reduce potential impacts associated with existing use of the pipeline. These benefits have not been quantified but enhance the environmentally conservative approach of this SSREIR.

MM 4.3-2 requires development of a Fugitive Dust Control Plan. Items 1, 4 and 10 in Subpart d. of MM 4.3-2 regulate speed, require dust suppression, and require measures to reduce track-out of debris into public roads. To the extent that an existing unpaved road will be utilized for a well or other facility subject to site plan review under the Revised Ordinance (2025 A), compliance with these measures may reduce fugitive dust from existing use of the road during the period of construction of the new well or facility. These benefits have not been quantified but enhance the environmentally conservative approach of this SSREIR.

MM 4.4-16 requires mitigation of biological impacts of ground disturbance, usually at a ratio of 1:1. Mitigation may be accomplished via a conservation easement or other means, including removal of legacy oil and gas equipment and restoration of the site (subpart c.) or enhancement or restoration of existing habitat (subpart d.).

MM 4.8-4 a. requires an applicant to mitigate the hazards associated with transportation of hazardous materials. This measure requires the applicant to identify on the proposed site plan the gas, oil, and produced water pipelines to be used for each new or reworked well site, and to show sensitive receptors within 200 feet of any such pipeline. The measure further requires integrity testing or other leak detection, reporting and repair for specified pipelines, including preparation of a Pipeline Management Plan (see also MM 4.8-9 and MM 4.8-10). To the extent that an existing pipeline will be utilized for a well or other facility subject to site plan review under the Revised Ordinance (2025 A), compliance with these measures may reduce the risk of and impacts from an unauthorized release of hazardous materials from existing use of the pipeline. These benefits have not been quantified but enhance the environmentally conservative approach of this SSREIR.

Accordingly, a mitigation measure requiring operators to plug a minimum number of idle wells per year is not necessary.

0005-67

Commenters assert that the SSREIR should include a mitigation measure imposing a County bonding requirement because, the commenters assert, state bonding requirements are inadequate. Please see responses to Comment 0005-64 regarding the distinction between non-Project baseline conditions and Project impacts. The comment does not distinguish between Project and non-Project wells. There is no basis to require mitigation for non-Project idle orphan wells. To the extent that commenters advocate that

the County should adopt mitigation for non-Project wells as a policy matter, this comment does not relate to the CEQA process. The comment is noted for the record and will be provided to the decision-makers.

Moreover, Project wells permitted under the Ordinance must be properly plugged and abandoned by project applicants. Please see response to Comment 0005-65 regarding orphan wells. There is no reason to expect that, instead of complying with plugging and abandonment requirements, project applicants will desert significant numbers of Project wells for which they have obtained County approval and invested in compliance with mitigation under the Ordinance.

State bonding requirements are appropriately determined by the State Legislature and CalGEM. The commenters' claim that state bonding requirements are inadequate does not raise an issue with regard to the SSREIR's impact analysis, or mitigation measures or alternatives to reduce potentially significant impacts of the Project.

0005-68

The commenters note that recent legislation (AB 3233, adopted in 2024 and codified at Public Resources Code section 3106.1) authorizes local governments to impose restrictions on oil and gas operations or development beyond those prescribed by state law. While the commenters are correct that the County has such discretion under Public Resources Code section 3106.1, their requests in this comment and Comments 0005-69–72 for the County to exercise such discretion are a policy matter, not CEQA comments. The comments are noted for the record and will be provided to the decision makers.

0005-69

The comment states that CalGEM bonding requirements are inadequate and requests that the County use its authority under Public Resources Code section 3106.1 to impose bonding requirements for well remediation. Please see response to Comment 0005-68 regarding Public Resources Code section 3106.1. State bonding requirements are appropriately determined by the State Legislature and CalGEM. The commenters' claim that state bonding requirements are inadequate does not raise an issue with regard to the SSREIR's impact analysis, or mitigation measures or alternatives to reduce potentially significant impacts of the Project.

0005-70

The comment states that CalGEM has no deadline to plug idle wells and requests that the County use its authority under Public Resources Code section 3106.1 to impose a deadline for operators to plug idle wells. Please see response to Comment 0005-68 regarding Public Resources section 3106.1. This comment does not raise an issue with regard to the SSREIR's impact analysis, or mitigation measures or alternatives to reduce potentially significant impacts of the Project.

CalGEM's idle well program, adopted pursuant to AB 2729, provides incentives for oil and gas operators to commit to plugging and abandoning their idle wells over a scheduled period of up to eight years, in exchange for exemption from certain testing and engineering analysis requirements; or to adopt an Idle Well Management Plan that will eliminate idle wells in compliance with a specified schedule, in lieu of paying certain fees. The Legislature recently adopted additional requirements to strengthen CalGEM's

program in AB 1866 (2024), including a requirement that Idle Well Management Plans provide for eliminating all idle wells, not only long-term idle wells, increasing the minimum percentages of idle wells that operators are required to eliminate each year, and increasing the fees for idle wells not subject to a management plan.

0005-71

The comment states that CalGEM does not prohibit steam injection at pressures above the fracture gradient and that the SSREIR should consider an alternative that prohibits injection above the fracture gradient. To the extent that commenters request that the County exercise discretion to regulate under Public Resources Code section 3106.1 as a policy matter, this comment does not relate to the CEQA process. The comments is noted for the record and will be provided to the decision makers.

An EIR must describe a range of reasonable alternatives to the project which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. CEQA Guidelines § 15126.6(a). An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. *Id.* The SSREIR considered a reasonable range of feasible alternatives and selected six alternatives for evaluation in detail. See Draft SSREIR, pp. 6-14–37 and Table 6-1 on pp. 6-50–51. The commenters do not claim that the range of alternatives in the SSREIR was unreasonable and do not explain whether or how an alternative restricting steam injection pressure would substantially lessen any of the significant effects of the Project. Moreover, the commenters provide no information to suggest that it would be technically or legally feasible. CalGEM, the state agency with statutory authority and technical expertise to regulate downhole operations, does not prohibit such injection, and state law authorizes operators to "utilize all methods and practices known to the oil industry for the purpose of increasing the ultimate recovery of underground hydrocarbons. . . . " Public Resources Code § 3106(b).

With the exception of modifications taking into account changes in state law (SB 1137), the SSREIR's alternative analysis is unchanged from that of the 2015 EIR and 2020 SREIR. In their prior comments and litigation, commenters could have raised the issue of an alternative limiting steam injection pressure, but did not do so. This not one of the three issues that the Court of Appeal decision and the trial court's Fourth Writ Judgment directed the County to analyze. When a court issues a writ of mandate directing that an EIR be supplemented or corrected, this "does not mean the Agency is required to start the EIR process anew." *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112; see also *Lotus v. Dept. of Transportation* (2014) 223 Cal.App.4th 645, 658. "Rather, the Agency need only correct the deficiency in the EIR . . . before considering recertification of the EIR." *Protect the Historic Amador Waterways*, 116 Cal.App.4th at 1112. CEQA is designed specifically to avoid "endless rounds of revision and recirculation of EIR[s]."*Silverado Modjeska Recreation and Park District v. County of Orange* (2011) 197 Cal.App.4th 282, 303.

0005-72

The comment notes that the state does not prohibit the use of open and unlined pits as a disposal method for oil industry wastewater and states that the County should consider an alternative that prohibits this

practice. To the extent that commenters request that the County exercise discretion to regulate under Public Resources Code section 3106.1 as a policy matter, this is not a CEQA comment. The comment is noted for the record and will be provided to the decision-makers.

See response to Comment 0005-71 regarding the CEQA requirement to consider a reasonable range of feasible alternatives. The commenters do not claim that the range of alternatives in the SSREIR was unreasonable, and do not explain whether or how an alternative prohibiting wastewater disposal in pits would substantially lessen any of the significant effects of the Project, particularly given that the mitigation already applicable to such operations in the SSREIR.

As stated in the Draft SSREIR, "In general, the use of drilling sumps has been reduced in the Project Area as well field operators increasingly utilize closed-loop drilling systems that avoid mud or fluid discharges to land during the well drilling process" (Draft SSREIR, p. 3-60; see also pp. 4.9-117–118, 4.9-151–153 (discussing pit and sump operations and regulatory limitations). Multiple mitigation measures address this issue.

MM 4.9-3 provides:

> All drilling operations must either use a closed loop system to avoid discharges of drilling muds and fluids, or obtain coverage under the State Water Resources Control Board low threat discharge General Order (Waste Discharge Requirements General Order 2003-0003- DWQ), obtain individual Waste Discharge Requirements issued by the Central Valley Regional Water Quality Control Board for the unit, or obtain coverage under a general order issued by the Central Valley Regional Water Quality Control Board applicable to drilling ponds. Any surface ponds or sumps must be cleared of fluids and muds in accordance with the State Water Resources Control Board general order, applicable Water Discharge Requirements and California Geologic Energy Management Division regulations. Compliance with the State Water Resources Control Board or Central Valley Regional Water Quality Control Board low-threat discharge orders or Water Discharge Requirements, if closed loop systems are not used, and applicable laws, regulations and standards will reduce potential surface water quality impacts from contact with drilling muds or fluids during drilling and construction to less than significant levels.

MM 4.9-5 provides:

> For any activity for which [the Revised Ordinance] 19.98 applies, the Applicant shall not discharge produced water into any surface disposal facility unless the facility has received the Waste Discharge Requirements from the Central Valley Regional Water Quality Control Board, or the need for Water Discharge Requirements has been waived by the Central Valley Regional Water Quality Control Board. As required by the SB 4 regulations, well stimulation treatment fluids and produced fluids from wells that have been stimulated cannot be stored, discharged, or disposed into surface ponds or pits

In addition, MM 4.1-2 provides:

> Earthen sumps used in drilling shall be filled within 90 days after any well has been placed in production (unless such sumps are to be used within six months for the drilling of another well),

> and any sump used in productions shall be filled after its abandonment and restored to a uniform grade within ninety days.

MM 4.1-3 provides:

> Sumps and ponds shall be permitted only to the extent authorized by the Central Valley Regional Water Quality Control Board (via waiver, Waste Discharge Requirements, or other form of authorized written documentation) and shall comply with all applicable legal requirements and mitigation measures for sumps serving as storage, percolation or evaporation ponds for produced water.

MM 4.8-8.h provides:

> To prevent releases of hazardous substances during oilfield construction, all pit and sump operations shall be conducted in accordance with State Water Resources Control Board General Orders or Regional Water Quality Control Board waste discharge requirements or general orders or other legal requirements applicable to oil and gas exploration, extraction and well stimulation activities.

With the exception of modifications taking into account changes in state law (SB 1137), the SSREIR's alternative analysis is unchanged from that of the 2015 EIR and 2020 SREIR. In their prior comments and litigation, the commenters could have raised the issue of an alternative limiting use of pits or sumps, or challenged the adequacy of the mitigation measures noted above, but did not do so. This is not one of the three issues that the Court of Appeal decision and the trial court's Fourth Writ Judgment directed the County to analyze. When a court issues a writ of mandate directing that an EIR be supplemented or corrected, this "does not mean the Agency is required to start the EIR process anew. . . . Rather, the Agency need only correct the deficiency in the EIR . . . before considering recertification of the EIR." Protect the Historic Amador Waterways v. Amador Water Agency (2004) 116 Cal.App.4th 1099, 1112.

0005-73

The commenters assert that the SSREIR Project Description must be revised to remove well stimulation treatment (WST), and corresponding updates must be made to the analysis of impacts, mitigation measures, and alternatives because amended state regulations have phased out WST. The comment is correct that CalGEM has adopted 14 CCR Section 1780(d), which provides that CalGEM "will not approve applications for permits to conduct well stimulation treatments." As noted in the Final SREIR, Response to Comment 0024-1, in 2020 Governor Newsom announced a policy to phase out the issuance of new hydraulic fracturing permits. In April 2021, the Governor directed CalGEM to initiate rulemaking to phase out WST permitting by 2024, resulting in the adoption of Section 1780(d), which went into effect on October 1, 2024.

However, the commenters do not contend that the phasing out of WST permitting resulted in any new or substantially more severe environmental impacts than those analyzed in the SSREIR or the prior 2015 EIR and SREIR. See CEQA Guidelines §§ 15088.5, 15162. In the absence of permitted WST operations, any associated impacts will not occur. The prohibition on WST permitting is subject to pending litigation challenging 14 CCR section 1780(d) together with the preceding WST phase-out policy. See *Western States Petroleum Association v. Gavin Newsom et al.*, Kern County Superior Court, Case No. BCV-21-102380,

Third Amended Verified Complaint for Declaratory and Injunctive Relief and Petition for Writ of Mandate (filed March 14, 2025), pp. 4-6, 21-36.

0005-74

The commenters assert that the SSREIR Project Description must be revised to remove CO_2 from the list of gases that may be used in EOR, and corresponding updates must be made to the analysis of impacts, mitigation measures, and alternatives because commenters interpret SB 1314 as having "effectively banned all enhanced oil recovery through CO_2 injection in California."

SB 1314 (2022), codified at Public Resources Code § 3132, provides: "An operator shall not inject a concentrated carbon dioxide fluid produced by a carbon dioxide capture project or carbon dioxide capture and sequestration project into a Class II well for purposes of enhanced oil recovery, including the facilitation of enhanced oil recovery from another well." Public Resources Code 3132(b). However, the commenters' interpretation of the effect of SB 1314 is incorrect. SB 1314 defines two categories of carbon capture projects that cannot be sources of CO_2 used for EOR, as follows:

> (1) "Carbon dioxide capture project" means a project that uses a process to separate carbon dioxide from industrial or energy-related sources, ***other than oil or gas production from a well***, and produces a concentrated fluid of carbon dioxide with the intent of preventing emission of the carbon dioxide into the atmosphere.
>
> (2) "Carbon dioxide capture and sequestration project" means a carbon dioxide capture project that seeks to provide for the ***long-term isolation*** of the concentrated carbon dioxide fluid from the atmosphere ***through storage in a geologic formation***. Public Resources Code 3132(a) (emphases added).

Since Section 3132(a)(1) excludes CO_2 separated from oil or gas production from a well, and Section 3132(a)(2) is limited to CCS in long-term geological storage, SB 1314 does not prohibit EOR using CO_2 from oil or gas production. See SSREIR Chapter 3, Project Description, pages 3-73–75.

Moreover, the commenters do not contend that prohibiting the use of CO_2 in EOR would result in any new or substantially more severe environmental impacts than those analyzed in the SSREIR or the prior 2015 EIR and SREIR. See CEQA Guidelines §§ 15088.5, 15162. Where CO_2 is not used for EOR, associated impacts (if any) will not occur. The legislative history of SB 1314 also indicates that use of CO_2 in EOR, though an established practice in some other states, does not appear to be in wide use in California (Senate Committee on Natural Resources and Water 2022, p.2).

0005-75

This comment refers to the proposed measures, previously described in the comment letter, to allow Spanish-speaking residents to participate in the public process, decline certification of the CEQA analysis, and reject the Ordinance. Please see responses to Comments 0005-4 and 0005-5 regarding Spanish speakers' opportunity to comment.

This comment does not state a specific concern related to the adequacy of the SSREIR and therefore does not require a detailed response. This comment is noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration.

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6: Southern California Gas Company (SoCalGas)

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From: SoCalGasTransmissionUtilityRequest
To: Keith Alvidrez
Subject: "DCF: 0664-25- / Revisions to Title 19 - Kern County Zoning Ordinance - 2025(A), Focused on Oil and
Date: Monday, April 7, 2025 11:48:09 AM
Attachments: General Requirements.pdf

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or provide information unless you recognize the sender and know the content is safe.

Good afternoon,

Due to the large project area of this request we are unable to provide maps. Please refernce our interactive gas map with the following link: SOCALGAS - NATURAL GAS PIPELINE MAP Included is our general requirements when performing work or planning projects near SoCalGas high pressure lines. Please note, dimensioning is not provided, and we do not share as-built maps. 0006-1

If additional assistance is required, please send a copy of the project plans for an engineer to review and advise.

Please reference the Document Control File number (DCF) on all future correspondence in regards to this project.

Thank you,
Nerses Papazyan
Pipeline Planning Assistant
Gas Transmission Technical Services

SoCalGas
A Sempra Energy utility

PLEASE VISIT OUR INTERACTIVE WEBSITE TO VIEW OUR HIGH PRESSURE DISTRIBUTION AND TRANSMISSION LINES: SOCALGAS - NATURAL GAS PIPELINE MAP.

TO HELP THE ENVIRONMENT AND TO EXPEDITE RESPONSES, PLEASE SEND FUTURE PROJECTS AND CORRESPONDING ATTACHMENTS VIA EMAIL: SoCalGasTransmissionUtilityRequest@semprautilities.com

Please allow up to 60 days to receive a response to all future utility requests

NOTICE: This message is covered by the Electronic Communications Privacy Act, Title 18, United States Code, Sections 2510-2521. This e-mail and any attached files are the exclusive property of Sempra Energy and the sender, are deemed privileged and

SCG Transmission General Requirements

Transmission Technical
Services Department

9400 Oakdale Ave
Chatsworth, CA 91311
SC9314

The following are general requirements provided when performing work or planning projects near SoCalGas high pressure lines. Please review requirements along with project plans and notify SoCalGas Transmission Department about any questions or conflicts.

It is highly recommended that communication is maintained with SoCalGas to address all conflicts. Depending on the specific scope of your project there may be less or more requirements that need to be discussed regarding your project.

Cont'd.
0006-1

1- Consideration must be given to the safety of our pipeline(s) during all project stages.

2- SoCalGas must have continuous and uninterrupted access to the pipeline(s) and easement(s). In addition, SoCalGas conducts routine patrols and surveys of the pipeline(s); SoCalGas needs drivable access along the pipeline(s)/easement(s).

3- Buried pipelines must have a minimum cover of 3 feet and a maximum cover of 7 feet below finished grade. No change of grade whatsoever, even within these parameters, shall be made without prior approval of SoCalGas.

4- Prior to SoCalGas approving encroachment onto its easement(s), SoCalGas must be furnished with final grading plans showing the depth of the pipeline(s) below the existing surface and the depth of the pipeline(s) below the proposed finished grade. These elevations must meet SoCalGas' requirements for buried pipelines.

5- No permanent structures, such as buildings, block walls, foundations, gates, etc., shall be constructed within the easement or over the pipeline(s).

6- There shall be no planting of trees or other deep-rooted plants within the easement(s) or over the pipeline(s).

Cont'd.
0006-1

7 - Substructures shall cross perpendicular to the easement(s). Substructure crossings must provide a minimum of 18-inches vertical clearance from the pipeline(s). Additional separation is required for leach lines, fuel lines, etc.

8 - Parallel encroachments within the easement(s) are prohibited. In areas where a parallel substructure is being constructed outside of the easement(s), SoCalGas requires five feet of separation, with three feet of undisturbed fill, in order to protect the integrity of our facilities and allow the facilities to be safely accessed during inspection, maintenance, and repair. Additional separation may be needed for leach lines, fuel lines, high voltage electric, etc.

9 - All encroachments onto SoCalGas' easement(s) must have written approval of SoCalGas prior to construction or encroaching onto the easement(s).

10 - All work within the SoCalGas easement(s) and/or within 10 feet of the pipeline(s) must be witnessed by a SoCalGas representative, and no work will be allowed without the SoCalGas representative on site.

11 - No heavy equipment shall cross the pipeline(s) without SoCalGas' approval. Additional protective measures may be required where heavy equipment is expected to cross the pipeline(s).

12 - No mechanical equipment shall operate within three horizontal feet of the pipeline(s), and any closer work must be performed by hand.

13 - No mechanical equipment shall operate within two vertical feet of the pipeline(s), and any closer work must be performed by hand.

14 - Buried pipeline(s) shall not be left exposed, and exposed pipeline(s) shall not be buried, without prior inspection and approval by SoCalGas. If the pipeline(s) are exposed during construction (e.g. substructure crossings, etc.), the pipeline must be backfilled with sand or zero-sack slurry only.

15 - No vibratory compaction is permitted over the pipeline(s). In rare cases, vibratory compaction may be approved by SoCalGas' Engineering Department following review of detailed site conditions, pipeline data, and equipment specifications.

16 - All contractors and subcontractors must be notified of the presence of the pipeline(s).

17 - Contractors and subcontractors must call DigAlert (811) at least 2 working days prior to construction, grading, or excavation.

18 - Once approved, encroachments within SoCalGas' easement(s) shall be documented in an easement amendment or other document, as deemed appropriate by SoCalGas' Land Services Department.

SCG Transmission General Requirements

In addition to the previous requirements, SoCalGas recommends the following:

Cont'd.
0006-1

19 - Potholes should be made, as necessary, to establish the horizontal and vertical alignment of the pipeline(s) within the project area. This information should be indicated on the plans, as needed. CAUTION: SoCalGas personnel must be present during potholing operations. Arrangements for SoCalGas personnel to stand by during potholing activities can be made by calling DigAlert at 811.

20 - Consideration should be given to building setbacks from the easement lines. A minimum 15-foot setback is recommended whenever possible.

21 - All potential buyers or tenants of the property should be made aware of the presence of the pipeline(s) and easement restrictions.

Best Regards,

SoCalGas Transmission Technical Services

Comment 6
SoCalGas

0006-1

Thank you for your comment and participation in the public process. The comment includes the general requirements for performing work or planning projects near SoCalGas high pressure lines.

The comment does not state a specific concern related to the adequacy of the SSREIR and therefore does not require a detailed response. This comment is noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration.

Construction would conform to industry accepted best practices, as well as all local, state, and federal requirements.

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7: Yuhaaviatam of San Manuel Nation

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From:	Raylene Borrego
To:	OG-SSREIRComments
Subject:	Response to AB52: Revisions to Title 19- Kern County Zoning Ordinance- 2025, Focused on Oil and Gas Local Permitting (SCH# 2013081079); [COU-KERN-2025-1]
Date:	Tuesday, March 18, 2025 3:43:42 PM

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or provide information unless you recognize the sender and know the content is safe.

Dear Keith,

Thank you for contacting the Yuhaaviatam of San Manuel Nation (formerly the San Manuel Band of Mission Indians) regarding the above-referenced project. YSMN appreciates the opportunity to review the project documentation, which was received by the Cultural Resources Management Department on March 18th, 2025. The proposed project is located outside of Serrano ancestral territory and, as such, YSMN will not be requesting to receive consulting party status with the lead agency or to participate in the scoping, development, or review of documents created pursuant to legal and regulatory mandates. 0007-1

Kindly,
Raylene

Raylene Borrego
Cultural Resources Technician
Raylene.Borrego@sanmanuel-nsn.gov
O:(909) 864-8933 x 50-2035
M:(909) 737-3349
26569 Community Center Dr Highland, California 92346

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Comment 7
Yuhaaviatam of San Manuel Nation

0007-1

Thank you for your comment and participation in the public process. The comment states that the proposed Project Area is located outside the Serrano ancestral territory and the Yuhaaviatam of San Manuel Nation will not be requesting to receive consulting party status.

This comment does not state a specific concern related to the adequacy of the SSREIR and therefore does not require a detailed response. This comment is noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration.

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8: Twenty-Nine Palms Band of Mission Indians

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TWENTY-NINE PALMS BAND OF MISSION INDIANS

46-200 Harrison Place. Coachella, CA. 92236. Ph. 760.863.2444. Fax: 760.863.2449

April 15, 2025

Mr. Keith Alvidrez, Planning and Natural Resources Department
Kern County
2700 "M" Street, Ste 100
Bakersfield, CA 93301

RE: Draft Second Supplemental Recirculated Environmental Impact Report for Revisions to Title 19-Kern County Zoning Ordinance - 2025(A), Focused on Oil and Gas Local Permitting. SCH #2013081079

Dear Mr. Alvidrez:

This letter is regarding an informal consultation and in compliance with CEQA and Draft Second Supplemental Recirculated Environmental Impact Report for Revisions to Title 19-Kern County Zoning Ordinance - 2025(A), Focused on Oil and Gas Local Permitting. SCH #2013081079. The project is the reconsideration of the adoption of the Revisions to the Kern County Zoning Ordinance - 2025(A) focused on Oil and Gas Local Permitting and processing of this Draft Second Supplemental Recirculated Environmental Impact Report (DSSREIR) to provide the additional analysis and content required to address the three California Environmental Quality Act (CEQA) deficiencies in the SREIR (SREIR 2020/2021) that were identified in the Appellate Court opinion issued on March 7, 2024.

After reviewing the proposed project, the Twenty-Nine Palms Band of Mission Indians has determined: The project is outside of the known Chemehuevi Traditional Use Area. The other tribes who do have cultural affiliation with the project area should be contacted. 0008-1

If you have any questions, please do not hesitate to contact the Tribal Historic Preservation Office at (760) 775-863-2486 or by email at Nicolas.Garza@29palmsbomi-nsn.gov.

Sincerely,



Nicolas Garza
Cultural Resources Specialist, Twenty-Nine Palms Band of Mission Indians

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Comment 8
Twenty-Nine Palms Band of Mission Indians

0008-1

Thank you for your comment and participation in the public process. The comment states that the proposed Project is outside of the known Chemehuevi Traditional Use Area and that other tribes who do have cultural affiliation with the Project Area should be contacted.

This comment does not state a specific concern related to the adequacy of the SSREIR and therefore does not require a detailed response. This comment is noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration.

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9: Kern County Superintendent of Schools

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KCSOS
Kern County Superintendent of Schools
Office of John G. Mendiburu, Ed.D. — Advocates For Children

RECEIVED
MAR 25 2025
Kern County Planning & Natural Resources Dept.

March 21, 2025

Our File No.: CO25-0029

Kern County Planning Department
Attn: Keith Alvidrez
2700 M Street, Suite 100
Bakersfield, CA 93301

RE: DEVELOPER FEES FOR: Draf Second Supplemental Recirculated EIR; Kern County Zoning Ordinance Gas & Oil Permitting
(San Luis Obispo County line to the west, Kings and Tulare County lines to the north, the 2,000-foot elevation contours to the east and Los Padres National Forest to the South)

Dear Mr. Alvidrez,

This office represents Kern County School Districts with regard to the imposition of school facility fees and appreciates the opportunity to respond on behalf of the districts regarding the proposed project. This letter is limited to addressing the possible effects which the project might have on school facilities created by students attributable to the project. It is not intended to address other possible environmental concerns which might be identified by the district(s) after reviewing it. 0009-1

As reference in correspondence dated April 3, 2024 (file number CO24-0039) we are affirming that the above mentioned project proposing reconsideration of the adoption of the revisions to the Title 19 - Kern County Zoning Ordinance 2025(a) focused on oil and gas local permitting will not have significant effects on either of these district's facilities so long as statutory school facilities fees are collected as required by law and that no further mitigation measures regarding school facilities are necessary.

Thank you for the opportunity to comment on the project. Should you have any questions, or if we can be of any further assistance in this matter, please contact me at 636-4599, or through e-mail at anwatson@kern.org.

Sincerely,

Andrea Watson, Specialist
School District Facility Services

Cc: Districts

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Comment 9
Kern County Superintendent of Schools

0009-1

Thank you for your comment and participation in the public process. The comment states that the proposed Project will not have significant effects on the district's facilities so long as statutory school facilities fees are collected as required by law and that no further mitigation measures regarding school facilities are necessary.

This comment does not state a specific concern related to the adequacy of the SSREIR. This comment is noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration.

Statutory school facility fees are collected automatically at the time that building permits are issued.

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10: Tom Porter

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From: Porter, Tom
To: OG-SSREIRComments
Subject: California Environmental Quality Act (CEQA)
Date: Tuesday, March 25, 2025 11:33:16 AM

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or provide information unless you recognize the sender and know the content is safe.

Most of kern county depends on oil production. Let us drill. 0010-1

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Comment 10
Tom Porter

0010-1

Thank you for your comment and participation in the public process.

This comment does not state a specific concern related to the adequacy of the SSREIR and therefore does not require a detailed response. This comment is noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration.

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