SECTION 3: RESPONSES TO WRITTEN COMMENTS

3.1 - List of Commenters on the Recirculated Draft EIR

A list of public agencies, organizations, and individuals who provided comments on the Recirculated Draft EIR (RDEIR) is presented below. Each comment has been assigned a code. Individual comments within each communication have been numbered so comments can be crossed-referenced with responses. Following this list, the text of the communication is reprinted and followed by the corresponding response.

3.1.1 - Comments on the Recirculated Draft EIR

Author **Author Code**

State Agencies

Caltrans ..... Caltrans
California State Clearinghouse ..... CSC
CAL FIRE ..... CF

Local Agencies

Calaveras Public Utility District ..... CPUD
Contra Costa County Local Agency Formation Commission ..... CCLAFCO
Town of Danville ..... DAN
City of Dublin ..... DUBLIN
Dublin San Ramon Services District ..... DSRSD
East Bay Municipal Utilities District ..... EBMUD
City of San Ramon ..... SR

Organizations

Calaveras Planning Coalition ..... CPC
California Native Plant Society ..... CNPS
Greenbelt Alliance ..... GA
Sierra Club ..... SC
SOS Danville ..... SOS-D
Tassajara Valley Preservation Association ..... TVPA

Individuals

Lisa Arendt ..... ARENDT
Newell Arnerich ..... ARNERICH
Amair Ashfaq ..... ASHFAQ
John Ashley ..... ASHLEY
Jessica Benson ..... BENSON
Chuck Bettencourt ..... BETTENCOURT
Richard Blood ..... BLOOD

Ray Brant ..... BRANT
Samesh Braroo..... BRAROO
Ella Brovitz ..... BROVITZ
Dorothy Burt..... BURT
Daniel Cassara ..... CASSARA
Kristine Christensen..... CHRISTENSEN
Marie Cooley ..... COOLEY
Murray Dashe ..... DASHE
Denise DeFazio ..... DEFAZIO
Maria Eansor..... EANSOR
Don and Carolyn Foster ..... FOSTER
Sue Frankel ..... FRANKEL
Nasser and Mindy Gaemi ..... GAEMI
Amy Gratteau..... GRATTEAU
Sunita Gupta ..... GUPTA
Gaurab Hazarika ..... HAZARIKA
Terrance Howland..... HOWLAND
Sharon Jones..... JONES
Roger Lake ..... LAKE
Linda and Tom Leonard ..... LEONARD
Bih-Wan Lin and Tzen-Wen Guo ..... LIN
Gretchen Logue ..... LOGUE
Terry Magovern ..... MAGOVERN
Anna Nahlik ..... NAHLIK
Bill and Holly Newman ..... NEWMAN
Sam Pejham ..... PEJHAM
David Rampa..... RAMPA
Dan and Laura Rich ..... RICH
Peter Robinson ..... ROBINSON
Timothy Ryan..... RYAN
Jennifer Sabo ..... SABO
Gita Saxena ..... SAXENA
Ann Schinske..... SCHINSKE
Suzanne Seever..... SEEVER
Glen Simmons..... SIMMONS
Jim and Cathy Soule..... SOULE
Linda Stevens..... STEVENS
Lloyd Szabo ..... SZABO
Flola Tam..... TAM
Ginger and Jim Taylor ..... TAYLOR
Christa Thompson..... THOMPSON
Dennis Van Wagner ..... VAN WAGNER
Christian Wiedemann ..... WIEDEMANN-C
Jeff Wiedemann..... WIEDEMANN-J

Sandee Wiedemann ..... WIEDEMANN-S
Paul Zegar ..... ZEGAR
Jared Zeretzke ..... ZERETZKE

Individuals at Public Hearing

Juan Pablo Galván ..... PABLO
Bill Newman ..... NEWMAN-B
Holly Newman ..... NEWMAN-H
Joel Devalcourt ..... DEVALCOURT
Dorothy Burt BURT-2

3.2 - Responses to Comments on the Recirculated Draft EIR

3.2.1 - Introduction

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, Contra Costa County, as the lead agency, evaluated the comments received on the Draft EIR and Recirculated Draft EIR (State Clearinghouse No. 2014052089) for the Tassajara Parks Project, and has prepared the following responses to the comments received. CEQA does not require the lead agency to respond to comments received in connection with a recirculated draft EIR if and to the extent those same comments were made in connection with the original draft EIR. Nevertheless, in an effort to facilitate full disclosure and responsiveness, the County has voluntarily elected to respond to all comments raising substantial environmental concerns, even if certain comments are duplicative. This Response to Comments document becomes part of the Final EIR for the Project in accordance with CEQA Guidelines Section 15132.

3.2.2 - Comment Letters and Responses

The comment letters reproduced in the following pages follow the same organization as used in the List of Commenters.

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DEPARTMENT OF TRANSPORTATION
DISTRICT 4
P.O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5528
FAX (510) 286-5559
TTY 711
www.dot.ca.gov

Serious Drought.
Help save water!

November 30, 2016

04-CC-2016-00039
SCH # 2014052089

Mr. John Oborne
Contra Costa County
Department of Conservation and Development
6000 Heritage Trail
Clayton, CA 94517

Tassajara Parks – Recirculated Draft Environmental Impact Report (DEIR)

Dear Mr. Oborne:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Sustainable Communities Strategy (SCS), Caltrans mission signals a modernization of our approach to evaluating and mitigating impacts to the State Transportation Network (STN). Caltrans Strategic Management Plan targets aim to reduce Vehicle Miles Travelled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the Recirculated DEIR. 1

Project Understanding

The proposed project is situated on approximately 771 acres of land on two sites located in the Tassjara Valley area of unincorporated Contra Costa County. The land on which the project would be located is east of the City of San Ramon and Town of Danville. Approximately 155 acres of the above-referenced land is commonly known as the Southern Site. The Northern Site and Southern Site are located less than 0.5 mile apart and are separated by intervening properties along Camino Tassajara Road. The project would consist of 125 single-family residences. In addition, two trail staging areas and trailheads, a pedestrian/equestrian trail, detention basin, sewer pump station, grading, various frontage improvements to Camino Tassajara Road, and minor modifications to portions of a parking lot for the adjacent Tassajara Hills would be constructed. Access to the development will be provided via Interstate 680 (I-680) on- and off-ramps at Sycamore Valley Road and Crow Canyon Road connecting to Camino Tassajara Road.

Lead Agency

As the lead agency, Contra Costa County is responsible for all project mitigation, including any needed improvements to State highways or reduction in VMT. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring

should be fully discussed for all proposed mitigation measures. 1 CONT

Traffic Impacts

Please correct volumes for freeway mainline in Table 3.12-3 Existing Conditions Freeway Analysis: 2

- Many of the volumes used in this table are not comparable (both too high & low) with volumes in our census data (2012-16).
- In No. 3: I-580 – I-680 Junction/Dougherty Rd, EB has 1,704 vehicles per hour (vph) a.m. and 11,320 vph p.m. There is almost 10,000 vph difference between a.m. & p.m. volumes on this one facility segment/location. This is repeated to various degrees throughout table, please validate or correct. 3
- In No. 14: Typo in a.m. LOS (Chinese). 4
- Please correct and re-analyze the existing conditions table and all the other Freeway Analysis tables. 5

Additionally, please include analysis of freeway ramps impacted by the project accessing State facilities in the four directions. An exhibit showing trip generation accessing State facilities by percentage along arterials and/or add ramp intersections should also be included in Exhibit 3.12-5. 6

Multimodal Planning

The proposed project should be conditioned to connect to the existing bike lanes on Camino Tassajara Road as shown in the *2009 Contra Costa Countywide Bicycle and Pedestrian Plan.* 7

Additionally, Mitigation Measure TRANS-1 states that the project will contribute funds to the West Dublin BART Station, which is identified as a new station. However, as this station is already in operation, and is not the nearest station to the project, please clarify how these funds will be used and how it will help mitigate the project's transportation impacts. While Caltrans supports the use of public transportation to mitigate project impacts, the mitigation should be shown to reduce transportation impacts. We recommend considering other mitigation measures to encourage walking, bicycling, and public transportation use, such as funding for a shuttle connecting the project to the nearest BART station. 8

Vehicle Trip Reduction

In Caltrans' *Smart Mobility 2010: A Call to Action for the New Decade*, this project falls under Place Type 5 Rural Towns, which includes projects with a mix of housing, services and public institutions in compact form that serve surrounding rural areas. Therefore, we encourage you to establish a Transportation Management Association (TMA) in partnership with other developments in the area, and pursue aggressive trip reduction targets with Lead Agency monitoring and enforcement. In addition, the Transportation Demand Management (TDM) elements described below should be included in the program as they are the most effective measures to promote smart mobility and reduce regional VMT and traffic impacts to the STN 9

given the project's Place Type:

- Project design to encourage walking and bicycling;
- Lower parking ratios;
- Provide shuttle service and transit fare incentives for the Dublin/Pleasanton BART station on a continuing basis;
- Designated bicycle parking;
- Charging stations for electric vehicles; and
- Carpool and clean-fuel parking spaces.

9 CONT

For additional TDM options, please refer to Chapter 8 of FHWA's *Integrating Demand Management into the Transportation Planning Process: A Desk Reference*, regarding TDM at the local planning level. The reference is available online at: http://www.ops.fhwa.dot.gov/publications/fhwahop12035/fhwahop12035.pdf. For information about parking ratios, please see MTC's report, Reforming Parking Policies to Support Smart Growth, or visit the MTC parking webpage: http://www.mtc.ca.gov/planning/smart_growth/parking.

Traffic Impact Fees

Please identify project-generated travel demand and estimate the costs of public transportation improvements necessitated by the proposed project; viable funding sources such as development and/or transportation impact fees should also be identified. We encourage a sufficient allocation of fair share contributions toward multi-modal and regional transit improvements to fully mitigate cumulative impacts to regional transportation. We also strongly support measures to increase sustainable mode shares, thereby reducing VMT.

Should you have any questions regarding this letter, please call Erik Bird at 510-286-5521 or Erik.Bird@dot.ca.gov. 10

Sincerely,

PATRICIA MAURICE
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

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State Agencies

California Department of Transportation (Caltrans) November 30, 2016

Response to Caltrans-1
The comment is noted. It describes the California Department of Transportation (Caltrans) mission and approach to analyzing traffic impacts; summarizes the Project description; confirms the County's status as lead agency; and summarizes requirements for mitigation measures. It does not raise any specific Project-related environmental issues under CEQA and therefore no further response is required.

Response to Caltrans-2
Determinations of peak-hour freeway volumes presented and analyzed in the RDEIR were based on Caltrans 2013 data, which was the most up-to-date data available at the time of issuance of the Notice of Preparation of the Draft EIR, consistent with CEQA requirements in defining existing conditions. Annual Average Daily Traffic (AADT) data, as well as K and D factors, were used to calculate peak-hour directional volumes. As noted in the note [(a)] to Table 4.12-13 on page 3.12-14 of the RDEIR, directional volumes in vehicles per hour (vph) were calculated as:

AADT x K-Factor x D-Factor percentage.

The K-Factor is the percentage of AADT during the peak-hour for both directions of travel. The D-Factor is the percentage of the peak-hour travel in the peak direction. "K" and "D" factors multiplied with the AADT gives the one-way peak period directional flow rate or the design hourly volume (DHV).

Caltrans offers two data sets for use in the preparation of Traffic Studies: traffic census data, as well as the Caltrans Performance Measurement Systems (PEMS). The data used to determine freeway peak-hour design volumes (i.e. K/D factors and AADT) were obtained directly from Caltrans 2013 traffic census data published online. Caltrans publishes AADT, K, D, and other data in a report once per year, which was consulted at the time the Notice of Preparation (NOP) was issued, and this data was used in the preparation of the Tassajara Parks traffic study. The PEMS data is a second data set that is similar but not identical to the census data, and the County assumes that this is the basis for the discrepancy. No change to the impact analysis or conclusions is warranted.

Response to Caltrans-3
Please refer to CT-2 response.

Response to Caltrans-4
The commenter observed Chinese characters in Table 3.2-13. No Chinese characters are observed in this table for Intersection No. 14. No further response is required.

Response to Caltrans-5
Please refer to CT-2 response.

Response to Caltrans-6
Please refer to Master Response 3: Transportation Analysis, Subsection 2.

Response to Caltrans-7
Please refer to Master Response 3: Transportation Analysis, Subsection 5.

Response to Caltrans-8
Please refer to Master Response 3: Transportation Analysis, Subsection 2.

As noted in the impact discussion for TRANS-8, the Central Costa County Transit Authority (CCCTA; "County Connection") operates flex service and also operates the TRAFFIX school bus service. The closest connection to this transit system is the Route 35 bus line, which operates along Bollinger Canyon Road between Wedgewood Road and Dougherty Road in San Ramon. In addition, the Project would be required to form a new transit county service area, which could further be used to enhance transit-related options.

Response to Caltrans-9
This comment sets forth Caltrans' assessment of the nature of the Project, using Caltrans' materials. However, it does not raise any specific Project-related environmental issues under CEQA, and, therefore, no further response is required. However, for informational purposes, it is noted that the RDEIR evaluated the Project's potential impacts on pedestrian/bicycling facilities and public transit and confirmed that the Project is consistent with applicable policies and would not result in any related significant impacts. Therefore, no mitigation is required. It is further anticipated, however, that Project residents would use existing Class II bike lanes on Camino Tassajara (which would be preserved by the Project), as well as new sidewalks and crosswalks installed by the Project that would connect to the Project to travel to nearby schools, sports fields, etc.

Response to Caltrans-10
The commenter requests further information be provided regarding the fair share contribution of the Project to transportation improvements required in light of the travel demand generated by the Project. Please see Caltrans-7 and Caltrans-8 responses.

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

December 1, 2016

John Oborne
Contra Costa County
30 Muir Road
Martinez, CA 94553

Subject: Tassajara Parks
SCH#: 2014052089

Dear John Oborne:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on November 30, 2016, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

Document Details Report
State Clearinghouse Data Base

SCH# 2014052089
Project Title Tassajara Parks
Lead Agency Contra Costa County

Type EIR Draft EIR
Description Note: Recirculated & Extended Review Per Lead

The project proposes construction of 125 homes on 30 acres of a 771 acre project site, with substantial park land dedication.

Lead Agency Contact

Name John Oborne
Agency Contra Costa County
Phone 925-674-7793 **Fax**
email
Address 30 Muir Road
City Martinez **State** CA **Zip** 94553

Project Location

County Contra Costa
City San Ramon, Danville
Region
Lat / Long
Cross Streets Camino Tassaraja
Parcel No. 220-100-023, 206-030-065, 223-020
Township **Range** **Section** **Base**

Proximity to:

Highways
Airports
Railways
Waterways
Schools
Land Use Ag - grazing / A-80, AG/AG lands

Project Issues Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Traffic/Circulation; Water Quality; Wetland/Riparian; Growth Inducing; Landuse

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Wildlife, Region 3; Native American Heritage Commission; Cal Fire; Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission; Department of Water Resources; Office of Emergency Services, California; California Highway Patrol; Caltrans, District 4; State Water Resources Control Board, Division of Drinking Water, District 4; Regional Water Quality Control Board, Region 2

Date Received 09/30/2016 **Start of Review** 09/30/2016 **End of Review** 11/30/2016

Note: Blanks in data fields result from insufficient information provided by lead agency

2

California State Clearinghouse (CSC)

Response to CSC-1
The comment is noted; no response is warranted.

Response to CSC-2
The comment is noted; no response is warranted.

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State of California

CEAP
11/30/16
E

The Natural Resources Agency

Memorandum

To: Ed Orre
SCU

Date: 10/5/2016

Governor's Office of Planning & Research
NOV 16 2016
STATE CLEARINGHOUSE

From: Chris Browder, Deputy Chief Environmental Protection

Subject: Environmental Document Review
Project Name: Tassajara Parks
SCH#: 2014052089
Document Type: Draft Environmental Impact Report
Potential Area(s) of Concern: ☒ Fire Protection ☒ Oak Woodland ☐ Need of THP
☐ Timberland Conversion ☐ Reforestation ☐ Other:
DUE DATE: 11/14/2016

The above-referenced environmental document was submitted to CAL FIRE for review under the California Environmental Quality Act or the National Environmental Policy Act. The proposed project is located in the area associated with your unit. Project activities may affect CAL FIRE's fire protection operations or natural resources under the Department's jurisdiction, or both, or the project may require a permit from CAL FIRE. Please review the attached document and address your comments, if any, to the lead agency prior to the due date. Your input at this time may allow the project proponent to modify the project to reduce or avoid any identified significant effects or to obtain the appropriate permit prior to project implementation. If your unit's environmental coordinator is not available, please pass this on to another staff member in order to provide comments prior to the due date. 1

Comments should be submitted directly to the lead agency before the due date with a copy to the State Clearinghouse (P.O. Box 3044, Sacramento, CA 95812-3044). If you have no comments, please check the item below and provide a brief explanation.

☐No Comment - Explanation: The 125 residences proposed for the Northern Site is located in SRA. Homes will be required to be built to Chapter 7A standards, All Buildings must be PRC 4291 Compliant, Roadways, Grades, Farm Grounds and Water Requirements must PRC 4290 Compliant, All construction equipment and operations must be compliant with the Public Resources Code.

Name and Title of Reviewer: Ed Orre
Phone: 408-206-3704 Email: Ed.Orre@fire.ca.gov
Note: Please complete this form and return it with a copy of any comments to: Ken Nehoda or Chris Browder, P.O. Box 944246, Sacramento CA 94244-2460.

Please pass this on to another staff member in order to provide comments prior to the due date.

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CAL FIRE (CF) October 5, 2016

Response to CF-1

The comment letter merely serves as a notification to CAL Fire, and does not raise any concerns regarding the environmental analysis under CEQA. No further response is warranted.

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DIRECTORS
Mark McCartney
John Lavaroni
Charlie Moore
David J. Ortegel
Clifford Overmier

MANAGER
Donna Leatherman

CALAVERAS PUBLIC UTILITY DISTRICT

506 W. St. Charles Street
P.O. Box 666
SAN ANDREAS, CALIFORNIA 95249
TELEPHONE: 209-754-9442 FAX: 209-754-9432

CERTIFIED #7015 3430 0000 1654 1640

November 28, 2016

John Oborne
Contra Costa Department of Conservation & Development
30 Muir Road
Martinez, CA 94553

Re: Comments on Recirculated Draft EIR
for the Tassajara Parks Residential
Development-Water Supply Evaluation
State Clearinghouse No. 2014052089

Dear Mr. Oborne:

These comments are on behalf of the Calaveras Public Utility District (CPUD) on the Water Supply Evaluation prepared as part of the Recirculated DEIR dated September 29, 2016 for the Tassajara Parks Residential Development.

CPUD previously filed comments on the DEIR and those comments are hereby incorporated by reference. 1

CPUD's comments are focused most particularly on Section 3.13 of that Evaluation addressing "Utilities and Service Systems," or Water Supply Evaluation. This section of the Recirculated DEIR describes one of the water supply sources for the Project as being water supplied by CPUD from its pre-1914 water rights entitlements on the Middle Fork of the Mokelumne River and more particularly water released from CPUD's Schaads Reservoir.

We note that this section of the Recirculated DEIR is largely unchanged from what was previously included in the DEIR. However we note the additional information included on page 3.13-3 describing the reliability of the Schaads water supply. We also note the addition of detail on page 3.13-4 concerning the range of the amount of water which might be provided by CPUD; the release schedule for such water; and a discussion of the small amount of water this is in relation to EBMUD's annual customer water demand.

One clarification we might add in connection with the description on page 3.13-2 in the first full paragraph titled "Source 1-CPUD Water" of the "50 plus –year term over which the CPUD is willing to commit to providing the CPUD water" the actual language of the CPUD "Term Sheet" is: "Initial term of 25 years, with a right to renew the lease for second a 25-year term, and ability to further extend Lease upon mutual agreement."

CPUD looks forward to completion of the EIR process and to possibly fulfilling its role as the supplier of water for the Proposed Project. 2

Sincerely,

Donna Leatherman

Donna Leatherman, District Manager

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Local Agencies

Calaveras County Public Utilities District (CPUD) November 28, 2016

Response to CPUD-1

This comment does not raise any CEQA issues, and, therefore, no further response is required. For informational purposes, please see Master Response 1: Water Supply and Distribution, which explains that the use of CPUD water is no longer proposed.

Response to CPUD-2

The comment is noted. The use of CPUD water is no longer proposed, and therefore, the related issue of a term sheet for the use of said water is no longer applicable. Please see Master Response 1: Water Supply and Distribution for further discussion of this issue.

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CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
651 Pine Street, Sixth Floor • Martinez, CA 94553-1229
e-mail: LouAnn.Texeira@lafco.cccounty.us
(925) 335-1094 • (925) 335-1031 FAX

Lou Ann Texeira
Executive Officer

MEMBERS

Donald A. Blubaugh, *Public Member*
Federal Glover, *County Member*
Michael R. McGill, *Special District Member*
Mary N. Piepho, *County Member*
Rob Schroder, *City Member*
Igor Skaredoff, *Special District Member*
Don Tatzin, *City Member*

ALTERNATE MEMBERS

Candace Andersen, *County Member*
Sharon Burke, *Public Member*
Tom Butt, *City Member*
Stanley Caldwell, *Special District Member*

November 14, 2016

John Oborne
Contra Costa County
Department of Conservation & Development
30 Muir Road
Martinez, CA 94553

SUBJECT: Recirculated Draft EIR - Tassajara Parks Project

Dear John:

Thank you for sending the Contra Costa Local Agency Formation Commission (LAFCO) the notice of availability regarding the Recirculated Draft Environmental Impact Report (R-DEIR) for the Tassajara Parks Project.

Consistent with comment letters we previously sent on this project, and with particular reference to our most recent comment letter dated July 18, 2016, we offer the comments below.

1

1. Agricultural Resources

a) The R-DEIR includes a discussion of the characteristics of the land and soil within the area of the project site that would be converted to residential or other non-agricultural uses, and evaluates these characteristics against the definitions set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) Act (Gov't. Code §§56016 and 56064).

2

The R-DEIR discloses that the project site has been and continues to be used for cattle grazing, and concludes that the land and soils in subject area do not fall within the CKH definition of "prime agricultural land"; and, therefore, no mitigation is indicated for the loss of such agricultural lands. The conclusion is based on information presented on page 3.2-13 including the statement that *the project site's carrying capacity for cattle grazing is less than one animal unit per acre*. This statement requires substantiation as there is no information provided in the R-DEIR as to the number of cattle that currently (or historically) deploy on the project site. Grazing activity is and has been an important use of the project site historically, although the R-DEIR provides no quantitative information

as to the number of cattle on the property for grazing purposes. Absent factual information of this nature, the R-DEIR provides no basis to support the conclusion that the land and soils in subject area do not meet the definition of "prime agricultural land" per the CKH definition. Please provide the quantitative information as to the number of cattle grazing on the property to assure that LAFCO, as a Responsible Agency under CEQA, can rely on this EIR for LAFCO purposes. 2 CONT

b) The R-DEIR includes an inaccurate statement on p. 3.2-13 where it states: "*Adjustment of the ULL to incorporate the 30-acre Residential Development Area would require approval by the Contra Costa Local Agency Formation Commission (LAFCO).*" This is incorrect; LAFCO has no authority or jurisdiction over changes to the ULL. Please correct or remove this statement. 3

c) While the Project's proposal to restrict and permanently prevent urban uses on 710 acres of the overall 771-acre project site is commendable, the conversion of 57.29 acres of agricultural land to urban uses remains as a potentially significant impact for which the R-DEIR indicates no mitigation is required. LAFCO will need further explanation of this issue in the LAFCO application. 4

d) The R-DEIR indicates that agricultural uses surrounding the project site consist of grazing lands and small intermittent orchards (p.3-2.4). What is the proximity of these agricultural uses to the proposed development? Will buffers be needed (and provided) to safeguard the agricultural uses from the development? 5

e) The R-DEIR notes on p. 3.2-13 that Contra Costa LAFCO is currently considering adoption of an Agricultural and Open Space Preservation Policy (AOSPP). We are pleased to report that on November 9, 2016, the Commission adopted an AOSPP. Please update the EIR to reflect this recent action. 6

f) In accordance with LAFCO's newly adopted AOSPP, we acknowledge and appreciate that the project is consistent with the County's Right to Farm Ordinance, and that notification of the appropriate parties will be conducted. 7

2. **Air Quality**

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to Section 65080 [Gov. Code §56668(g)]. Further, the commission may consider the regional growth goals and policies on a regional or subregional basis (Gov. Code §56668.5). Accordingly, LAFCO looks at consistency of boundary change proposals with the regional transportation and other regional plans, such as *Plan Bay Area*. 8

The R-DEIR notes that project is not located within either a "Priority Conservation Area" or a "Priority Development Area." Further, the project is located on the urban edge, extends the

development footprint into an undeveloped area, which is predominately used for grazing, and presently has limited access to the local or regional transit network. Most concerning, the project results in significant unavoidable impacts to the following: adopted air quality plan consistency and greenhouse gas operational emission threshold; and would contribute vehicle trips resulting in unacceptable levels of service. 8 CONT

The project appears to be inconsistent with the goals and strategies contained in *Plan Bay Area*, which encourage compact development in existing downtowns, main streets and neighborhoods with transit access, and discourage urban edge development in open space and/or agricultural lands.

3. Public Services and Recreation

In the July 2016 LAFCO comment letter, we requested additional information relating to fire protection, law enforcement and schools. Thank you for addressing our concerns regarding fire protection services. However, we did not see responses to our concerns relating to law enforcement and schools (see July 2016 LAFCO comment letter). As a Responsible Agency under CEQA, and in order to rely on this EIR for any LAFCO action, it is important that these issues be adequately addressed. 9

4. Water Supply

a) The R-DEIR indicates that to implement the project's water strategy, an extraterritorial water service agreement ("out of agency service agreement - OASA) or annexation through LAFCO will be needed (p. 3.13-1). The DEIR made no reference to an OASA; however, we note that the R-DEIR includes an OASA as an option. The CKH (Gov't. Code §56133) allows for OAS under specific conditions, including responding to a public health and safety threat (e.g., failed septic, dry or contaminated well, etc.)), or in anticipation of annexation. In addition, please be advised that Contra Costa LAFCO has a policy regarding OAS, which provides that annexation is encouraged over OAS, and that OAS is generally not intended to support new development. 10

b) The R-DEIR should mention in the Utility and Service Systems section that in conjunction with a possible annexation to EBMUD, a corresponding expansion of EBMUD's Sphere of Influence (SOI) will also be required, both of which are subject to LAFCO's approval. 11

c) The R-DEIR notes that the Calaveras Public Utility District (CPUD) is willing to provide water for either 25 years (p. 3.13-28) or up to 50 years (pp. 3.13-2 and 3.13-27). This is concerning for LAFCO. The R-DEIR should address the scenario whereby the availability of water from CPUD was to end after 50 years. 12

d) Access to CPUD water supply is based on points included on a "terms sheet" which presumably is a preliminary agreement. As stated in our July 2016 letter, LAFCO will require a 'will serve' letter from EBMUD, which would be viewed as the fundamental 13

13 CONT

evidence of EBMUD's acceptance and recognition that a binding agreement between the parties will make the proposed new water source available to the project.

e) We concur with the conclusion on p. 3.13-33 that absent EBMUD, LAFCO, and/or CPUD approvals (as necessary for the selected water source and transaction structure), water may not be able to reach the Project Site. 14

5. Wastewater

The same information that is necessary for LAFCO to act on an expansion of the EBMUD SOI and service boundary (i.e., factors set forth in CKH 56668) apply to SOI and boundary adjustments for the Central Costa Sanitary District ("CCCSD").

Thank you for the opportunity to comment. We look forward to your responses to our comments and to receiving the Final EIR. 15

Sincerely,

Lou Ann Texeira
Executive Officer

c: LAFCO Planner

Contra Costa Local Agency Formation Commission (CCLAFCO) November 14, 2016

Response to CCLAFCO-1
The comment is noted. No further response is warranted.

Response to CCLAFCO-2
Although the land is utilized for grazing, the annual carrying capacity is less than one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003. According to Sheila Barry, UC Cooperative Livestock and Natural Resources Advisor, CA Certified Rangeland Manager #63, the annual carrying capacity of Bay Area annual grasslands that characterize this site are typically 5 to 12 acres per animal unit depending on annual weather patterns. Therefore, the Project site does not meet the definition of Prime Agricultural Land pursuant to Government Code Section 56064 (c).

Response to CCLAFCO-3
The text on page 3.2-13 has been revised as follows:

> ~~Adjustment of the ULL to incorporate the 30-acre Residential Development Area would require approval by the Contra Costa Local Agency Formation Commission (LAFCO).~~ In accordance with the Cortese-Knox-Hertzberg (CKH) Act, the Contra Costa Local Agency Formation Commission (LAFCO) is required to consider the Project's potential impacts on agricultural land, in connection with the anticipated reorganization proposal (i.e., annexation and related sphere of influence amendments to EBMUD and CCCSD).

Section 4, Changes to the Errata includes this text change, which would be adopted as part of certification of the Final EIR. This revision reflects merely a clarification and amplification of the analysis and does not trigger any additional evaluation or review.

Response to CCLAFCO-4
Impacts of the Project to agricultural lands and uses, as defined by the LAFCO, are discussed in Section 3.2 on pages 3.2-12 through 3.2-15. The RDEIR does not identify any significant unavoidable impacts on agricultural resources, as the Project Site does not contain any prime agricultural land as defined by the Cortese-Knox-Hertzberg Act or unique farmlands, or farmlands of statewide importance (as defined under Farmland Mapping and Monitoring Program [FMMP] criteria). (The RDEIR at page 3.2.13 lists the factors used by LAFCO to determine prime agricultural land; further information regarding the carrying capacity is provided above in Response to LAFCO-2.)

The permanent preservation of the approximately 727-acre remainder of the Project site for non-urban uses, through the conveyance of the foregoing acreage in fee to the East Bay Regional Parks District, and further supported by the adoption of the Agricultural Preservation Agreement, would provide a permanent buffer to maintain and promote the protection of agricultural uses throughout the Tassajara Valley area. As the commenter notes, it is anticipated this information would be included in any annexation/sphere amendment proposal for the Project submitted to the LAFCO. See also Master Response 2: Memorandum of Understanding.

Response to CCLAFCO-5
The Project Site's existing and past uses are described in detail on page 3.2-4 of the RDEIR. Some remnant walnut trees are located within the southwest corner of the Northern Site. According to the Arborist Report prepared by Hort Science (Appendix C of the RDEIR), these trees are not considered viable for preservation, and would be removed. As depicted on Exhibit 2-8, Preliminary Landscape Plan, the open space area that could be suitable for agricultural use to the north and south of the proposed development within the Northern Site would be surrounded by landscaping and native vegetation. As referenced under Section 3.2.3, Contra Costa County's Right to Farm Ordinance would protect continued agricultural uses on the site and adjoining properties from nuisance complaints.

Response to CCLAFCO-6
The text on 3.2-13 and 3.2-14 of the RDEIR has been revised as follows:

> "Contra Costa LAFCO ~~is currently considering adoption of~~ adopte**d** an Agricultural and Open Space Preservation Policy (Policy) on November 9, 2016. One of the main purposes of the Policy is to provide guidance to the applicant on how to assess the impacts on prime agricultural, agricultural and open space lands of applications submitted to LAFCO and to explain how the applicant intends to mitigate those impacts. As part of the ~~draft~~ Policy, mitigation for annexation of agricultural lands should include, but is not limited to, acquisition or dedication of prime agricultural and agricultural land, development rights, bringing qualified land into an open space plan, open space and agricultural conservation easements to permanently protect adjacent or other prime agricultural, or open space lands within the County.
>
> ~~As noted above, the draft LAFCO policy has not been adopted as of the writing of this R-DEIR. Nevertheless, b~~ Because the Project includes the dedication of a total of approximately 727 acres of preservation areas within the Northern and Southern Sites for the purposes of non-urban uses only (consisting of parks, recreation, open space, agriculture, grazing, scenic, wetland preservation and creation, and habitat mitigation), the Project can be viewed as consistent with this ~~draft~~ Policy given the preservation of this land in connection with the conversion of only approximately 57.29 acres of agricultural land on the Northern Site."

Furthermore, footnote 2 on page 3.2-14 of the RDEIR has been revised as follows: ~~As of the writing of this R-DEIR, LAFCO has not adopted this policy. In the event that such a policy is adopted at~~ such time as the Project submits an annexation application to LAFCO, it would be within LAFCO's discretion to determine how to apply said Policy to the Project.

Response to CCLAFCO-7
The comment is noted. The issue raised by the commenter addresses the merits of the Project and does not raise any issues with the environmental analysis provided in the RDEIR. No further response is necessary.

Response to CCLAFCO-8
The commenter summarizes provisions of state law and sets forth its assessment of Project consistency with these criteria. However, the decision of the merits of the Project falls within the land use agency's authority, in this case the County. Impacts from the Project related to Air

Quality/greenhouse gas (GHG) emissions are discussed at Section 3.3 on pages 3.3-40 through 3.3-77. The commenter correctly states that the Project would result in significant and unavoidable impacts related to air quality plan consistency, operational GHG emissions, and transportation. However, the Project would implement Mitigation Measures AIR-2, AIR-3, and AIR-6 to reduce impacts related to inconsistency with the Bay Area Air Quality Management District (BAAQMD) 2010 Clean Air Plan. Furthermore, the completed Project would not exceed the BAAQMD's annual or daily significance thresholds related to operational emissions (primarily caused by vehicle miles traveled). Furthermore, as discussed on page 3.3-74, the Project is not within a priority development area (PDA) as identified by Plan Bay Area. Although Plan Bay Area encourages growth within PDAs, the Plan does not preclude growth in areas outside of PDAs, nor could it since it does not have the legal authority to usurp local land use decision-making. The Project includes the addition of 125 single-family homes and related improvements at a site located on the edge of the urban area, near other similar urban residential developments. For the Project's residential development to proceed, the vast majority of the Project Site would be permanently preserved for agricultural, open space and other similar non-urban uses, thereby effectively creating a substantial "green buffer zone" of land owned and controlled by public agencies that surrounds the Urban Limit Line (ULL) in this part of the Tassajara Valley, beyond which no urban services would be extended and urbanization of the Tassajara Valley would therefore not occur. Together, the Agricultural Preservation Agreement and the Project would directly and substantially advance the primary objective of the County's 65/35 Land Preservation Plan Ordinance. Accordingly, implementing the Project would create a permanent buffer that would facilitate Plan Bay Area goals of discouraging urban sprawl.

As a practical matter, not every project built to help meet the region's housing needs can be constructed as an urban infill project close to existing high-quality transit. Suburban development remains an important part of the development mix envisioned for Contra Costa County and is most appropriate for the Project Site; Plan Bay Area does not eliminate this development option for communities but rather acknowledges that different types of communities will have varying types of development, with the ultimate land use decision residing within the applicable land use authority (in this case, the County Board of Supervisors). The modeling prepared for the Project conservatively accounts for Project density in trip generation assumptions for the land use and acknowledges that single-family homes have the highest trip generation of residential land use types. In addition, the California Emissions Estimator Model (CalEEMod) mitigation component provides the means to quantify the trip and vehicle miles traveled reductions from alternative modes of travel available at the Project Site. The modeling claims no credit for reductions from these alternative modes; therefore, the results reflect the maximum emissions expected from the type of development proposed and thus represent a conservative analysis. Although the Project Site is currently outside the ULL, the County's ULL provisions allow for a minor modification to the ULL under specified circumstances and the Board of Supervisors has the discretion to make this decision. Which side of the ULL a project would fall on is not relevant in determining the vehicle miles traveled (VMT) for that proposal or for comparing the VMT to other projects. The analysis does not take credit for shorter commute trips to Bay Area job centers compared to trips from outside the Bay Area that would be required if housing needs are not accommodated in the Bay Area. Therefore, the analysis fully discloses the Project's air quality impacts using the best methods available for project level analysis.

Response to CCLAFCO-9
This comment is noted. As described more fully in the RDEIR, the General Plan policy for County Sheriff response times is a goal, but not a requirement, as it states that the department should "strive" to meet the response time goal when making beat configuration decisions. However, for purposes of CEQA analysis, the Sheriff's Office reviewed the Project plans and confirmed that the Project would not result in the need for new or expanded facilities in order to meet response time goals (see p. 3.11-13). In addition, the provision of services and mandated/recommended response times, in and of themselves, do not have a physical impact on the environment for purposes of CEQA. The proposed development would be required to pay applicable development fees to offset its incremental impacts to law enforcement services to the extent feasible. Therefore, related impacts would be less than significant.

The RDEIR evaluated the Project's potential impacts on schools and confirmed there would be less than significant impacts (RDEIR, pp. 3.11-14). Consistent with Senate Bill (SB) 50, the ability to require mitigation of school facility impacts as a condition of approval is limited to the collection of statutory developer fees. The collection of statutory fees is the exclusive means of considering and mitigating potential impacts on school facilities that occur or might occur as a result of the approval of development of real property.

The RDEIR included additional references to fees that could be imposed under SB 50 to offset potential effects of increasing enrollment.

Response to CCLAFCO-10
The comment is noted. The comment correctly notes that the RDEIR includes an "out of agency service agreement" as an alternative basis to deliver CPUD water to the proposed Project. The comment that the Contra Costa LAFCO encourages annexation in preference to Out of Agency Service Agreements is noted. See also Master Response 1: Water Supply and Distribution, which explains how the CPUD option is no longer being pursued.

Response to CCLAFCO-11
The comment is noted. The commenter indicated that a Sphere of Influence Amendment would also be triggered in connection with an annexation (both of which require LAFCO approval), and that this information should be included in the CEQA document. It is noted that the RDEIR provides that "[d]epending on the transaction structure decided upon, it is anticipated that Local Agency Formation Commission (LAFCo) approval would be required" (RDEIR at 3.13-33).

That LAFCO approval is also recognized on page 3-2 of the Water Supply Evaluation (WSE [Appendix J of the RDEIR]). The two required LAFCO approvals are listed on page 2-42 of the RDEIR. The second paragraph on page 3.13-1 of the RDEIR is hereby amended to add the following clarification: "Additionally, the annexation to EBMUD would require a corresponding expansion of EBMUD's Sphere of Influence (SOI), and both actions would be subject to LAFCO approval." This minor revision merely clarifies and amplifies the analysis and does not trigger any additional CEQA review.

Response to CCLAFCO-12
The County notes that State law requires that water supply be demonstrated for a period of 20 years, recognizing that it is speculative to treat any water source as permanent. Agencies such as

EBMUD typically rely on contract water rights with time-limited terms that do not guarantee the water supply is available in perpetuity. Therefore, the 50-plus year CPUD water supply described in the RDEIR and WSE demonstrates adequate water supplies for a period longer than required under State law and is more than sufficient to support approval of the Project. An analysis of a scenario whereby the availability of water from CPUD was to end after 50 years is not required. Furthermore, the use of CPUD water is no longer proposed. Please see Master Response 1: Water Supply and Distribution for further discussion of the issue of water supply.

Response to CCLAFCO-13

As noted in the Response to Comment EBMUD-2, as a responsible agency, the EBMUD Board of Directors would not formally be asked to consider providing water service to the Project until after the County, as lead agency and the local land use authority, has exercised its discretion to both include the residential development component of the Project within the County ULL and to approve the Project itself. Assuming the County takes these actions, then the Project applicant would need to proceed with the required approval processes with respect to EBMUD and LAFCO. Assuming the EBMUD Board of Directors, in its discretion, decides to approve the proposed water supply arrangement, this would be reflected in a mutually acceptable agreement between the Project applicant and EBMUD. It is anticipated that as part of any such arrangement, a "will serve" letter would be forthcoming, for consideration by LAFCO as appropriate. Please see the RDEIR, at page 3.13-1 for additional related discussion (". . . "the Project applicant seeks to have EBMUD play a role in implementing the Project's water strategy," and that "any such arrangement would require approval of the EBMUD's Board of Directors . . ."). Please also note that the Project no longer proposes to pursue the CPUD option. See also Master Response 1: Water Supply and Distribution for additional information on water supply issues.

Response to CCLAFCO-14

The commenter acknowledges its concurrence with the RDEIR's conclusion that without EBMUD, LAFCO, and/or CPUD approvals, water may not be able to reach the Project Site. Comment noted; no further response required.

Response to CCLAFCO-15

The two required LAFCO approvals for CCCSD are listed on page 2-42 of the RDEIR (Project Description). No update to the RDEIR is required, and no further response is necessary.

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DANVILLE

"Small Town Atmosphere
Outstanding Quality of Life"

November 30, 2016

John Oborne, Senior Planner
Contra Costa County
Department of Conservation & Development
30 Muir Road
Martinez, CA 94553
Email: john.oborne@dcd.cccounty.us

RE: Town of Danville's comments on the Recirculated Draft EIR for the Tassajara Parks Project, County File Numbers GP07-0009, RZ09-3212, SD10-9280, DP10-3008

Dear Mr. Oborne:

On behalf of the Town of Danville, we submit these comments regarding the County's Recirculated Draft Environmental Impact Report (RDEIR) for the Tassajara Parks Project. The Town has carefully reviewed the RDEIR, as have the Town's outside counsel, Remy Moose Manley, LLP. We provided comments on the Draft EIR on July 18, 2016 (attached as Attachment A). Please provide responses to our comments in the July 2016 letter as well as the additional comments below that are specific to the new and revised text in the RDEIR. 1

Although the RDEIR includes many minor textual edits, the three main changes relate to: (1) the new discussion of a potential Memorandum of Understanding (MOU) relating to the use of a preservation agreement to justify changing the County's Urban Limit Line, (2) the replacement of the recycled-water option with an off-site water conservation option for the Project's water supply, and (3) a new conclusion of significant and unavoidable impacts related to the project's inconsistency with plans for reducing greenhouse gas (GHG) emissions (Impact AIR-1). As explained below and in our July 2016 letter, the EIR, even as revised, does not comply with the California Environmental Quality Act (Public Resources Code, § 21000 et seq.) (CEQA), the Planning and Zoning Law (Gov. Code, § 65000 et seq.), and the Subdivision Map Act (Gov. Code, § 66410 et seq.).

Our July 2016 letter included eight attachments. This letter is accompanied by different and additional attachments. For the County's convenience, Attachment A to this letter reproduces the July 2016 letter, but it does not reproduce Attachments 1-8 to that letter.

Please include all attachments in the Final EIR so that the public and decision-makers may review them.

I. Request for Notice

While I received written notice of the revised DEIR, this letter is also our formal written request for additional notice of all future public hearings or environmental documents, and any other public notices related to this Project. Please include the following names, emails, and addresses on your mailing list for all future public notices issued for the Project:

- Sabrina Teller
  Remy Moose Manley, LLP
  555 Capitol Mall, Ste. 800
  Sacramento, CA 95814
  steller@rmmenvirolaw.com

- Robert Ewing
  Town of Danville
  510 La Gonda Way
  Danville, CA 94526
  rewing@danville.ca.gov

Please forward this request to any other relevant departments of the County, including the County Clerk-Recorder's Office.

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CONT

II. The County's treatment of the preservation agreement MOU as an action separate from the Project is improper piecemealing and violates CEQA.

The RDEIR states that the Project involves concurrent discretionary approvals of the General Plan Amendment, Development Plan, Development Agreement, and Change to the ULL. (RDEIR, pp. 2-41 to -42.) The "Change to the ULL" category includes "the making of required findings and any actions related thereto." (*Ibid.*; County Code, § Chapter 82-1.018(a)(3).) This phrase arguably means that the MOU should be considered part of the project as an "action related" to the making of required findings for changing the ULL. Yet, the RDEIR insists that the MOU can be approved separately from the Project and without CEQA review. (RDEIR, p. 2-16.) Please clarify if the County plans to approve the MOU separately and before it considers approval of the Project. If so, then this is improper piecemealing. (Pub. Resources Code, § 21002.1, subd.

2

(d); see, e.g., *Berkeley Keep Jets Over the Bay Committee v. Board of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1358; *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325, 1333.) 2 CONT

The RDEIR explains that the MOU would include a range of actions largely related to conserving and preserving agricultural lands, but it would also include a "mechanism for a project like Tassajara Parks to be removed from the enhancement area boundary if it contributes at least $4 million to agricultural enhancement and dedicates at least 500 acres of land." (RDEIR, p. 2-21.) Since the RDEIR does not provide the final language of the MOU, and in fact, the MOU currently exists only in draft form and is subject to further revision and modification, the Town reserves the right to challenge the MOU at a later time. But we note that the MOU may violate CEQA if it commits the County to approval of the Tassajara Parks project "as a practical matter." (See *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 135.)

The County's use of the preservation agreement MOU as described in the RDEIR would also be improper for other reasons. 3

First, because the terms of the proposed MOU allowing a project to be removed from the enhancement area are clearly specific to the Project and have been negotiated in advance, and since the MOU is not intended to "modify existing laws, regulations or policies regarding the Tassajara Valley Agricultural Enhancement Area nor to limit any jurisdiction's power conferred under Article 11, Section 7 of the California Constitution", it appears the only reason for proposing the MOU is to facilitate the making of a finding to permit the Project's approval under County Code, § Chapter 82-1.018(a)(3). Second the inclusion of the East Bay Regional Parks District (EBRPD) as a party to the MOU is improper. EBRPD is not considered a local government under Article 11, Section 7 of the California Constitution, and as such does not have the same police powers that apply to zoning and land use matters. As such, under County Code, § Chapter 82-1.018(a)(3), EBRPD cannot be considered a "party to the preservation agreement". Finally and apart from any arguments about the propriety of the MOU, in light of the $4 million dollars being offered by the applicant as part of the MOU, the County and applicant will not be able to assert that funding additional mitigation measures that reduce the Project's significant and unavoidable impacts related to transportation and greenhouse gas emissions are somehow financially infeasible. 4 5

It should also be noted that the County is currently in the process of undertaking a comprehensive decennial review of the County ULL as called for under County Code, § Chapter 82-1.018(d) – *"The board of supervisors will review the boundary of the urban limit line in the year 2016. The purpose of the year 2016 review is to determine whether a change to the* 6

boundary of the county's urban limit line map is warranted, based upon facts and circumstances resulting from the county's participation with cities in a comprehensive review of the availability of land in Contra Costa County sufficient to meet housing and job needs for twenty years." Based upon information presented at a public meeting held on November 15, 2016, the County has a sufficient supply of land available within the boundary of the current urban limit line to accommodate the projected housing and job growth forecast through the year 2040. 6 CONT

III. The RDEIR does not comply with CEQA.

A. The RDEIR still fails to adequately analyze and mitigate the project's potentially significant environmental impacts.

1) Utilities and Service Systems: 7

The RDEIR replaced the recycled-water option with an East Bay Municipal Utility District (EBMUD) off-site water conservation option as the "Source 2" option for supplying the Project's maximum dry-year demand of 48 acre-feet per year (AFY). (RDEIR, p. 3.13-7 to -8.) No changes were made to the Source 1 (Calaveras Public Utility District water) option, so all comments in our July 2016 letter related to the Source 1 option still need to be addressed.

The RDEIR asserts that the new Source 2 option "creates a potable water source by funding the accelerations or expansion of water conservation measures within EBMUD's service area" and thereby "reduc[ing] current potable use within EBMUD's service area by an amount sufficient to offset the Proposed Project's water demand." (RDEIR, p. 3.13-7.) But, as explained below, the RDEIR's math does not add up: the additional savings that could be achieved through additional funding for or acceleration of the 53 conservation measures in EBMUD's Water Supply Management Program (WSMP) 2040 Final Plan do not appear to equal the Project's demand of 48 AFY. (See EBMUD, April 2012, Final, Water Supply Management Program 2040 Plan, at http://www.ebmud.com/index.php/download_file/force/674/1403/?wsmp-2040-revised-final-plan.pdf (last visited Nov. 4, 2016).) 8

EBMUD's WSMP 2040 Plan projects that the District will need conservation measures to produce 39 million gallons per day (MGD) (approximately 120 AFY) in order for the District to meet projected need for water in the District's existing service area, which does not include the Project site. (EBMUD WSMP, pp. 1-2, 2-1 ["expected growth within EBMUD's own service area"].) Indeed, the Project is outside of EBMUD's Ultimate

Service Boundary (USB), which defines the District's "limit of future annexation for extension of water service." (EBMUD WSMP, p. 3-8; RDEIR, p. 3.13-1 [Project is outside of EBMUD's "urban service boundary (USB)" – a term that should read "ultimate service boundary" as shown in the WSMP p. 7-9]; see also RDEIR, Appendix A, EBMUD's June 17, 2014 letter with comments on the Notice of Preparation ["The following EBMUD policies . . . establish that EBMUD will oppose annexation of properties outside of EBMUD's USB and the extension of service by EBMUD to those properties"].) Since the Project's demand of 48 AFY (approximately 15.6 MGD) would be in addition to the projected needs of the District's existing USB service area, the only way for the Project's Source 2 option to adequately supply the Project's water needs would be if the Project is able to help EBMUD accelerate or expand its water conservation measures in ways that produce an additional 15.6 MGD, for a total conservation target of approximately 55 MGD.

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The RDEIR's description of the potential conservation measures that could be funded by the Project is confusing and inaccurate. The RDEIR notes that WSMP "approved conservation Levels B through D, accounting for a projected water savings of 39 mgd" but that "a number of the elements through Level D have not been fully implemented and are awaiting the allocation of funding." (RDEIR, p. 3.13-8.) The RDEIR implies that fully funding measures listed in Levels B through D and expanding the proposed measures under Levels B through E would somehow produce enough additional water in the District to meet the Project's water needs (approximately 15.6 MGD) in addition to the District's projected water needs for its existing USB service area through 2040. But the WSMP explains that fully funding and implementing Levels A through E would only produce 41 MGD total, with the four additional measures in Level E contributing a total of 2 MGD on top of the 39 MGD achieved by Levels A-D. (EBMUD WSMP, p. 6-5.)

> Five conservation programs (Levels A through E) were created each providing increasing levels of water savings, with the fifth level (E) being the maximum theoretical level of water savings (Table 6-1). Each program built on the prior program: Program A included the plumbing code only; Program B (equivalent to the District's current program) contains 25 conservation measures. Program C includes Program B measures plus 15 additional measures and uses the Automatic Metering System (AMS) to help identify (to the customer and to EBMUD) leakage and excessive use. This enhances the ability of EBMUD to conduct effective water surveys of residential and business customers. Program D has all 40 measures from Program C and adds a net of three measures. Program E includes four additional measures to Program D.

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(EBMUD WSMP, p. 6-4.) In other words, even if the Project helped EBMUD fully fund or accelerate all 53 conservation measures in Levels A through E, this would only produce an additional 2 MGD that could be devoted solely to the Project's needs instead of the District's projected needs for its existing USB service area. Moreover, EBMUD explains how it rejected 47 other conservation measures for reasons unrelated to availability of funding: "Technology/Market Maturity; Service Area Match; Customer Acceptance/Equity; and Relative Effectiveness of Measure Available." (EBMUD WSMP, pp. 6-3 to 6-4.) 9 CONT

Given the above, please explain how the off-site water conservation option would be able to produce 48 AFY or 15.6 MGD in additional water conservation above the 39 MGD of conservation that EBMUD estimates will be needed to meet the projected needs of its existing USB service area.

2) Air Quality/ GHG Emissions:

In our July 2016 letter, we raised four issues related to the DEIR's analysis of GHG emissions. First, we pointed out that the GHG analysis relied on BAAQMD's thresholds of significance for operational GHG emissions (1,100 $MTCO_2E$/year and/or 4.6 $MTCO_2E$/SP/year) despite those standards being limited to 2020 reduction targets. The DEIR did not explain why these thresholds were appropriate given that virtually all of the project's operational GHG emissions would occur after 2020. Second, despite stating that GHG analysis relied on BAAQMD's guidance, the DEIR failed to do so when it came to construction emissions. BAAQMD recommends calculation and disclosure of construction GHG emissions followed by an analysis of the significance of those construction emissions. The DEIR appeared to calculate and disclose the construction emissions without analyzing their possible significance. Third, we pointed out that the project does not support the primary goals of the BAAQMD Clean Air Plan (Impact AIR-1) because the project was found to have a significant and unavoidable impact on climate change (Impact AIR-6). Fourth, we noted that the analysis of Impact AIR-7 incorrectly stated that the project was consistent with the Contra Costa County Climate Action Plan ("CAP") despite a glaring inconsistency with Measure LUT 4. 10 11 12 13

In response to these and other issues raised through public comment, the RDEIR includes some helpful revisions. But the RDEIR ultimately creates more questions than it answers. Under Impact AIR-6, the RDEIR added an explanation of annualizing the construction emissions over the life of the project, and a brief explanation of the use of the BAAQMD thresholds despite their being tied to 2020. Under Impact AIR-7, a discussion of the applicability of measure LUT-4 was added, as well as discussions of consistency with SB 14

375, Contra Costa County US Cool Counties Climate Stabilization Declaration, and Executive Orders S-3-05 and B-30-15, though the RDEIR incorrectly states that it is unnecessary to apply post-2020 targets to the project. The RDEIR also changed the DEIR's less-than-significant conclusion for Impact AIR-1 ("The Project may conflict with or obstruct implementation of the applicable air quality plans") to a significant and unavoidable impact. 14 CONT

As explained below, there are a number of issues with the updated analysis in the RDEIR. First, Impact AIR-7 cannot be less than significant if Impacts AIR-1 and AIR-6 are significant and unavoidable, because AIR-1 and AIR-6 were deemed significant due to the project's inconsistency with applicable plans. Second, the RDEIR's use of the BAAQMD's GHG emission thresholds—which are limited to AB 32's 2020 target—remains inappropriate because the vast bulk of the project's GHG emissions will occur over its 30-year projected lifespan between 2020 and 2050. The RDEIR fails to address why the outdated targets are appropriate for use in determining the significance of the project's operational GHG emissions, even though there are applicable post-2020 targets by which the project could be measured. Third, the RDEIR does explain that the construction emissions were annualized and added to the operational emissions (as recommended by the Sacramento Metropolitan Air Quality Management District and others). But this approach only serves to further skew the GHG emissions analysis in this case. Fourth, the added discussion of Measure LUT 4 under Impact AIR-7 is little more than an attempt to sidestep the project's inconsistency with that measure, and Contra Costa County's Climate Action Plan (CAP). Fifth, while the RDEIR did add discussions of SB 375, the Cool Counties Declaration, and Executive Orders S-3-05 and B-30-15 under Impact AIR-7, it fails to address new Senate Bill 32 (SB 32) and several applicable plans, policies, and regulations. One glaring example is that AIR-7 does not address the project's consistency with BAAQMD's Clean Air Plan, which has an applicable GHG component, as indicated in Impact AIR-1. (See Attachment E.) 15 16 17 18 19

a) <u>The Analysis of the GHG Impacts in the RDEIR is Fundamentally Flawed and Contradictory</u>

First, the RDEIR is fundamentally flawed because the analysis is internally inconsistent. Impacts AIR-1 and AIR-6 were declared significant and unavoidable while Impact AIR-7 was found to be less than significant, but the significance of Impact AIR-7 hinges on the project's consistency with applicable plans, policies, and regulations. Under both Impacts AIR-1 and AIR-6, the project was found to be inconsistent with an applicable plan. AIR-1 found the project to be inconsistent with the BAAQMD 2010 Clean Air Plan, and the 20

conclusion under AIR-6 requires the reader to presume that the project is inconsistent with Contra Costa County's Climate Action Plan.

As indicated in Impact AIR-1, the BAAQMD 2010 Clean Air Plan contains a GHG emissions component that is applicable to the project. (RDEIR, p. 3.3-41.) Indeed, Impact AIR-1 was revised from "less than significant" to "significant and unavoidable" because the project does not "support the primary goals of the AQP," one of which is reducing GHG emissions and protecting the climate. (*Ibid.*) If Impact AIR-1 is significant and unavoidable because of the project's inconsistency with the 2010 Clean Air Plan, then Impact AIR-7 is significant as well, for the same reason. The analysis of Impact AIR-7 must be revised to reflect the project's inconsistency with the BAAQMD Clean Air Plan.

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In analyzing Impact AIR-6, the RDEIR acknowledges that the project will generate GHG emissions and states that the significance of those emissions will be determined based on BAAQMD's May 2011 project-level significance thresholds. (RDEIR, p. 3.3-65.) Those thresholds are:

- Compliance with a qualified Greenhouse Gas Reduction Strategy, or
- 1,100 $MTCO_2E$/year, or
- 4.6 $MTCO_2E$/SP/year (where SP= employees plus residents).[1]

After adopting these as the thresholds of significance for Impact AIR-6 (see RDEIR, pp. 3.3-37 to -40, and 3.3-65 to -66) the RDEIR states that "if the project is less than any one of the thresholds identified above, then the Project would result in a less than significant cumulative impact to global climate change," meaning that Impact AIR-6 would be less than significant. (RDEIR, p. 3.3-66.) Impact AIR-6 was determined to be significant and unavoidable. So it can be assumed that the project is not less than any of the BAAQMD thresholds, including "consistency with a Qualified Greenhouse Gas Reduction Strategy." The RDEIR identifies the CAP as a "qualified Greenhouse Gas reduction strategy" and then states that the "primary means of determining project significance is through an assessment of consistency of the project with the CAP" (*id.* at p. 3.3-65). There is no assessment of the project's consistency with the CAP under Impact AIR-6. But the conclusion under Impact AIR-6 leads us to conclude that the project was not found to be consistent with the CAP.

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[1] As we noted in our initial comment letter, these thresholds are limited to reduction targets for 2020.

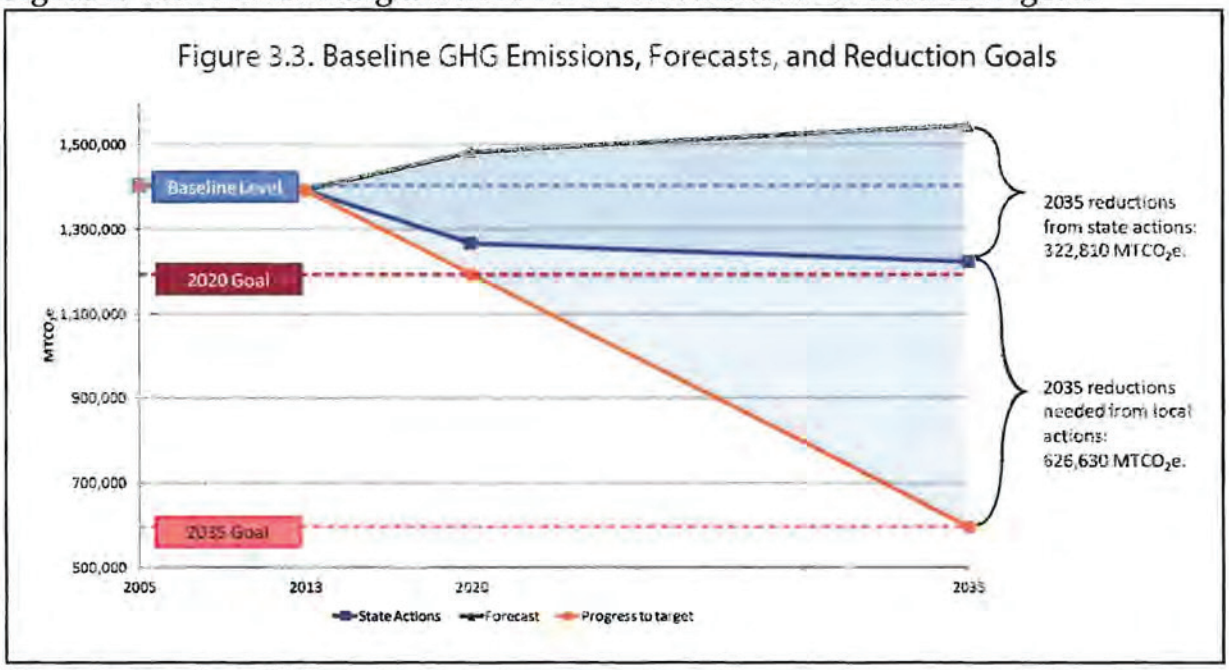
The analysis under Impact AIR-7 reaches the opposite conclusion. Impact AIR-7 states (incorrectly) that the project is consistent with the CAP, and therefore Impact AIR-7 is less than significant. Both of these statements cannot be true, and this contradictory claim requires both impacts to be reassessed. Either the project is consistent with the CAP or it isn't. As discussed below, the project is not consistent with the CAP. 22

Another fundamental flaw in the analysis of both Impact AIR-6 and AIR-7 is the conclusion that the 2020 targets are "appropriate." (RDEIR, p. 3.3-39.) The RDEIR justifies this claim with two assertions. First, "the project is expected to be completed prior to 2020" (*ibid.*) and second, that there are no "legislative mandate[s]" and/or targets beyond 2020 that would apply to the project. (RDEIR, p 3.3-68 and -75.) Both of these assertions are incorrect. 23

While the project may be fully constructed by 2020 (and even that seems quite ambitious), the project will not be "complete" until the end of its operational lifespan, which is calculated to be 30 years. (RDEIR, p. 3.3-66.) As stated in our July 2016 comments, virtually all of the project's operational emissions would occur between 2020 and 2050. These emissions represent the vast bulk of the project's GHG emissions and cannot be excused without mitigating them to the fullest extent feasible. 24

Moreover, there are two applicable post-2020 GHG reduction targets against which the project could measure its operational (and annualized construction) emissions. The first is SB 32—the California Global Warming Solutions Act of 2006, which Governor Brown signed into law on September 8, 2016. SB 32 is a "legislative mandate" to reduce GHG emissions by 40% below 1990 levels by 2030. (Legis. Council's Dig., Sen. Bill No. 32, (2015-2016 Reg. Sess.) Chapter 249; SB 32 available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB32 (last visited Nov. 4, 2016).) The EIR must analyze the Project's consistency with this target, which applies to both the project's construction and operational emissions. The second applicable post-2020 target is the CAP's 2035 GHG emissions reduction target of 50% below 1990 levels, or 57% below the 2005 baseline level. (Contra Costa County Climate Action Plan, #3, p. 37 (Attachment B).) The CAP goes beyond setting the overall target for 2035, and establishes the amount of "reductions needed from local actions" to meet the 2035 target. (*Id.* at p. 38, see Figure 1.) As Figure 1 illustrates, there is great need for reductions from local actions in addition to any anticipated reductions from state actions. The RDEIR must analyze the project's consistency with this target as well. 25

Figure 1: Chart illustrating the need for local reductions to meet CAP goals



(Attachment B, p. 38.)

25

Lastly, though the RDEIR acknowledges the cumulative nature of GHG impact analysis, no cumulative analysis was performed under AIR-6 or AIR-7. There was no comparison of the project, its GHG emissions, and proposed mitigation measures to other projects in the county and/or region to determine what this project's "fair share" of GHG emission reductions should be. The EIR must justify its selection of MM AIR-6 as the only feasible mitigation, potentially by comparing it to other projects in the county in a true cumulative analysis.

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b) <u>The Analysis of Construction GHG Emissions is Skewed and Misleading</u>

We note that the RDEIR does address our July 2016 comments on construction emissions, in that it explains that the construction emissions were annualized and added into the project's operational emissions calculations. (RDEIR, p. 3.3-66.) Even if several air districts have recommended this approach generally, in this case the approach serves to further skew the GHG analysis. The RDEIR's significance thresholds are limited to 2020, and the project purportedly will be completely constructed by 2020. Hence, all of the project's construction GHG emissions could occur by 2020, and could be accurately analyzed under the 2020 thresholds. Instead, the RDEIR "annualizes" the construction emissions and adds them to the operational emissions (which would largely occur

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between 2020 and 2050) which are (inappropriately) measured against 2020 thresholds. So the project's construction emissions are not "counted" until after 2020, during the project's operational lifespan out to 2050. The effect is that the construction and operational emissions are analyzed under thresholds that are inapplicable right out of the gate. 27

There is also an inconsistency in the calculations of the annualized construction emissions. When the RDEIR "annualizes" the construction emissions, the calculation results in 43 $MTCO_2E$/year. (RDEIR, p. 3.3-66.) When the annualized construction emissions are added to the operational emissions, they are listed as 42 $MTCO_2E$/year. (RDEIR, pp. 3.3-67 and -68.) Our calculations indicate the actual number 42.7 $MTCO_2E$/year, which should be rounded up to 43 $MTCO_2E$/year for consistency's sake. As such, the operational emissions tables need to be recalculated throughout this section. (See RDEIR, pp. 3.3-67 and -68.) 28

c) The Analysis of Operational Emissions is a Bald Attempt to Avoid Performing All Feasible Mitigation Measures

The RDEIR attempts to downplay the project's significant GHG emissions by stating that future projects will be more efficient because of new targets and thresholds that will be adopted by the state, county, and or BAAQMD in the future. (RDEIR, p. 3.3-69.) A statement of belief that future projects will be more efficient is no justification for the proposed project's level of pollution now. Nor can the project's contribution be dismissed by relying totally on state-government level policy and regulation. (See RDEIR, pp. 3.3-39 and -40.) It is not completely clear what "recent studies" the RDEIR is referring to, but the analysis in both the CAP and BAAQMD's CEQA Guidelines indicate that there will be a "gap" between state policy and the necessary reductions to meet the GHG reduction goals. (See Figures 1 and 2 below, comparing CAP's Table 3.6 Expected GHG Reductions from State Policies, 2020 and 2035, p. 35, with CAP's Table 3.8 Baseline GHG Emissions, Forecasts, and Reduction Goals, p. 38; see also, Attachment C [BAAQMD CEQA Guidelines Updated May 2011, Appendix D: Threshold of Significance Justification], pp. D-13 to D-22 (Attachment C).) 29

Figure 2: Table illustrating the "gap" between forecasted emissions with statewide reductions and the CAP reduction target

Table 3.8. Baseline GHG Emissions, Forecasts, and Reduction Goals

	2020 $MTCO_2e$	2035 $MTCO_2e$
2005 Baseline Emissions	1,403,610	1,403,610
Forecasted Emissions	1,483,720	1,545,980
Forecasted Emissions Minus Estimated Statewide Reductions	1,265,620	1,223,170
Reduction Target	1,193,070	596,540
Local Reductions Needed	**-72,550**	**-626,630**

Source: Michael Baker International 2015

(Attachment B, p. 38.)

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The RDEIR also fails to provide any justification for proposing only the measures in MM AIR-6 and, as we noted in our July 2016 comments, attempts to avoid doing so by finding the impact to be significant and unavoidable. This finding does not allow a project to avoid analyzing all potentially feasible mitigation measures. For example, a cumulative/comparative analysis of other projects in Contra Costa County would be helpful. By analyzing these projects, their GHG emissions, and the feasibility of proposed mitigation measures, the County could determine what level and type of mitigation represents each project's "fair share" of the reductions necessary to meet the applicable emissions targets. Whatever method the County employs, the EIR must contain some analysis of why the proposed mitigation measures are the only feasible and "fair" measures available to the project.

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There are a plethora of potential mitigation measures available that could possibly reduce the project's operational emissions to less than significant levels. To illustrate, we have attached examples from BAAQMD's CEQA Guidelines Update May 2011 (Attachment C) and CAPCOA's whitepaper on CEQA & Climate Change (Attachment D). The feasibility of these measures and those proposed in MM AIR-6 should be discussed. Some of the more effective mitigation measures that the RDEIR should analyze include:

- Purchase carbon offset credits or participate in an Off-site Mitigation Fee Program (CAPCOA, p. B-33.)
- Provision of more on-site solar energy.
- Planting appropriate, native trees in previously deforested areas to provide for carbon sequestration.
- LEED Certification (CAPCOA, p. B-20.)
- Exceed Title 24 Efficiency Requirements by 20% (CAPCOA, p. B-24.)

- Solar Orientation: Orient 75% or more of homes and/or buildings to face either north or south (within 30° of N/S). Building design includes roof overhangs that are sufficient to block the high summer sun, but not the lower winter sun, from penetrating south facing windows. Trees, other landscaping features and other buildings are sited in such a way as to maximize shade in the summer and maximize solar access to walls and windows in the winter. (CAPCOA, p. B-24.)
- Provide a complimentary electric lawnmower to each residential buyer. (CAPCOA, Table 16 Mitigation Measure Summary, p. B-19.)
- Energy Star Roof materials (CAPCOA, p. B-23.)
- Use light-colored/high albedo materials for non-roof impervious surfaces. (CAPCOA, p. B-24.)
- Low Energy Cooling. Optimize building thermal distribution by separating ventilation and thermal conditioning systems. (CAPCOA, p. B-26.)
- Provide public transit incentives such as free or low-cost monthly transit passes.
- Provide zero emission shuttle service to public transit and Project buildings/amenities.
- Promote ride sharing programs e.g., by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading and waiting areas for ride sharing vehicles, and providing a website or message board for coordinating rides.
- Provide education on energy efficiency.
- Reduce the use of pavement and impermeable surfaces.
- Require the use of construction materials with the lowest carbon footprint.

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The RDEIR does mention several measures that are suggested by CAPCOA and/or BAAQMD including the installation of solar or tankless water heaters, complying with California Green Building standards, and installing on-site renewable energy generation. But the RDEIR does not discuss why these measures are the only feasible measures for mitigating the project's GHG emissions. It may be possible, through the adoption of additional and/or more stringent measures (such as those outlined above) for the project's GHG emissions to be reduced much further to a less than significant level. The RDEIR should explain whether additional or more stringent measures are feasible, and adopt them if they are found to be feasible. For example, the RDEIR could discuss different percentages of the total energy demand that could be produced via on-site renewable energy generation, and then compare the different GHG emission reductions of those percentages with the cost to implement. Such a cost/benefit analysis would allow decision makers to accurately determine if settling on 10% of total energy demand is the

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only feasible renewable energy generation measure. The RDEIR would also benefit from a discussion of sources of renewable energy generation and their feasibility at the project site. Similarly, there is no discussion of why meeting the Green Building standards is feasible but exceeding them (by 20% for example) is not. The RDEIR should be revised to discuss these issues. 32

d) The Project is Not Consistent With the Contra Costa Climate Action Plan (CAP)

The RDEIR's analysis of the CAP under AIR-7 erroneously concludes that the project is consistent with the CAP. As we indicated in our July 2016 letter, the project is not consistent with Measure LUT 4. In Appendix E to the CAP, the County provides a checklist for new development projects that includes Table E.1: Standards for CAP Consistency - New Development. Under this table, for a new development to be consistent with Measure LUT 4, it must "be located within one half-mile of a BART or Amtrak station, or within one quarter-mile of bus station." (CAP, Appendix E, p. E-3.) The project will not meet this standard for consistency. The RDEIR attempts to circumvent this by stating that the measure is inapplicable to the project (ironically, because the project cannot meet the standard) and therefore the project is consistent with the CAP—sans the measure that the project cannot comply with. (RDEIR, p. 3.3-71.) 33

While it may be true that Measure LUT 4 was not intended to completely preclude development in areas without close proximity to transit, this does not allow projects to claim consistency with the CAP by picking and choosing measures they like while ignoring those they do not comply with. Developments that are inconsistent with the CAP are not precluded from being proposed or built, but they must analyze and mitigate the significant environmental impacts they create through their inconsistency. This would be true of a project that refused or was unable to comply with any of the measures in the CAP, such as Measure RE1, for example. Consistency with the CAP cannot be established by selective enforcement of its standards.

The RDEIR also mischaracterizes Measure LUT 4 as a measure concerned only with project density. The RDEIR alleges that, "[f]or a project to be inconsistent with this measure, it would need to be within the distance radii described from those facilities and to propose low density development." (RDEIR, p. 3.3-71.) This statement misrepresents the measure. Measure LUT 4 is a statement of the County's goal of reducing VMT through increased transit ridership. The CAP's Appendix D ("GHG Reduction Tech Appendix")—where the RDEIR claims to find justification for its unsupported conclusion—does not contain standards for density or distance attributes of individual 34

projects. Appendix D provides the assumptions and performance metrics the CAP uses to quantify estimated GHG emissions reductions; in other words, it lists the local "action items" that the county will need to implement to reach the CAP goals. (See Attachment B [CAP, Appendix D], p. D-1.) In contrast, Appendix E contains the standards that apply to individual projects in determining consistency with the CAP. (Attachment B [CAP, Appendix E], p. E-1.) 34

Measure LUT 4 is discussed on pages D-24 and D-25 in Appendix D of the CAP. The discussion begins with a statement of the measure's goal to "[r]educe vehicle miles traveled," followed by a list of the "action items" the county will undertake to reach that goal. One of the "action items" is for the county to encourage increased density in close proximity to public transit. But Appendix D does not state how the County will "encourage [the] increased density in close proximity to public transit" or how a land use project can be consistent with this goal. Appendix E contains the Standards for CAP Consistency, which are standards by which new development projects (including the proposed project) are measured for consistency with the policy goals in the CAP—such as whether a project will help reduce vehicle miles traveled, by being constructed in close proximity to transit. The tail does not wag the dog. Individual projects cannot selectively dictate which CAP policies the County will enforce. Just as they cannot select which Standards of Consistency in the CAP are "applicable to the Project." 35

The discussion of Impact AIR-7 also lacks the substantial linkage with the CAP necessary to establish actual consistency. (See *Center for Biological Diversity v. California Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, 225 ("*Newhall Ranch*").) The holding of the Newhall Ranch case is discussed in the RDEIR, as are the court's suggestions for providing a "reasoned explanation backed by substantial evidence," but the RDEIR fails to follow the court's advice. (RDEIR, pp. 3.3-35 to -36.) The RDEIR states that the CAP requires a County-wide 15% reduction in GHG emissions below the 2005 baseline levels by 2020. It then states that service population growth in unincorporated Contra Costa County is projected to be 6% between 2005 and 2020. The analysis goes on to allege that individual projects can comply with the CAP by reducing GHG emissions by 21% (15% + 6%) compared to a 2005 BAU scenario. (RDEIR, pp. 3.3-71 to -74.) This is the same error committed by the Department of Fish and Wildlife in *Newhall Ranch*, albeit on a smaller geographic scale. 36

In *Newhall Ranch*, the court found that the EIR failed to show how the project's 31% GHG emissions reduction as compared to a BAU model was consistent with achieving the statewide goal of a 29% reduction from a statewide BAU model. (*Newhall Ranch, supra*, 62 Cal.4th 204, 225.) The court went on to state that "The EIR simply assumes that the level 37

of effort required in one context, a 29 percent reduction from business as usual statewide, will suffice in the other, a specific land use development." (*Id.* at p. 227.) Here, the RDEIR makes the same assumption when it comes to the reduction target under the CAP. There is no discussion of how the proposed project's 29% reduction is consistent with Contra Costa County achieving its countywide target of 21% below BAU. The RDEIR simply assumes that because 29% is a greater reduction than 21%, the project is consistent. It then goes on to make the same error in comparing the project's reduction vs. BAU to the ARB Scoping Plan reduction goal of 21.7% vs. *statewide* BAU. (RDEIR, p. 3.3-74.)

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As stated above, a true cumulative analysis of the proposed project and other projects in the county, where their respective GHG emissions and relative reduction burdens are compared and analyzed, could provide the necessary evidence to establish the link between this project and the CAP, as required under the *Newhall Ranch* decision. Such an analysis would support the RDEIR's conclusion that the proposed reductions are the project's "fair share" of the countywide reduction burden. The RDEIR contains no such analysis.

Another potential approach would be to forgo the BAU analysis completely, as many projects have elected to do after the *Newhall Ranch* decision. Under this alternative methodology, the GHG efficiency threshold established by BAAQMD can be adapted using the applicable 2030 and/or 2035 targets. BAAQMD came up with its threshold by taking the statewide 2020 GHG reduction goal (for the sectors applicable to land use projects) in AB 32 and dividing it by the projected statewide service population for 2020. (See Attachment C [BAAQMD CEQA Guidelines Updated May 2011, Appendix D], p. D-22.) While BAAQMD's threshold is limited to 2020, the same kind of calculation (land use sector GHG emissions target for a given year, divided by projected service population for the same year) can be used to establish an efficiency threshold for the proposed project that is tied to 2030 or 2035 targets.

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Here, the project's efficiency could be measured against thresholds established using either the SB 32 goal of 40% below 1990 levels by 2030, or the CAP's 2035 target of 57% below the 2005 baseline levels. (Attachment B [CAP, Appendix C], p. C-21.) The CAP also projects service population growth in unincorporated Contra Costa County by 2035 to be 11% compared to 2005. (*Id.* at pp. C-17 to C-18 [Figure 3].) A project-level efficiency threshold could be established for 2035 using these two numbers in the same formula used by BAAQMD. To be truly consistent with the CAP, and to at least partially account for the project's operational emissions over its lifetime, the RDEIR must be revised to analyze project efficiency compared to the CAP's 2035 target.

Figure 3: Table illustrating the projected service population growth for 2020 and 2035

Table C.17. ABAG Projections for Unincorporated Contra Costa County, 2005–2035

	2005	2013	2020	2035	2005–2035 Change
Population	159,650	162,230	166,100	173,500	6%
Households	57,980	58,550	59,720	61,740	9%
Jobs	41,270	43,210	47,670	50,330	22%
Service Population	200,920	205,440	213,770	223,830	11%

Source: Association of Bay Area Governments 2009, 2013

(Attachment B, p. C-17.)

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The analysis under AIR-7 also erroneously concludes that it is "unnecessary to apply post-2020 targets" because the goals established by executive order "have not been codified." As stated above, SB 32 codified the 2030 GHG reduction goal. In addition, the CAP includes an applicable 2035 GHG reduction target and the RDEIR alleges the project is consistent with the CAP. We have outlined above an alternative and more appropriate methodology for performing a quantitative efficiency analysis to ensure that the project is consistent with the CAP's 2035 target.

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Lastly, though Impact AIR-7 was revised to include discussions of several applicable plans, policies, and regulations, there is at least one significant exclusion. As indicated in Impact AIR-1, the BAAQMD 2010 Clean Air Plan contains a GHG emissions component that is applicable to the project. (RDEIR, p. 3.3-41.) Indeed, Impact AIR-1 was changed from less than significant to significant and unavoidable because the project does not "support the primary goals of the AQP," one of which is reducing GHG emissions and protecting the climate. (*Ibid.*) As discussed above, if Impact AIR-1 is significant and unavoidable because of the project's inconsistency with the 2010 Clean Air Plan, then Impact AIR-7 is significant as well, for the same reason. The analysis of Impact AIR-7 must be revised to reflect the project's inconsistency with the Contra Costa County CAP and the BAAQMD Clean Air Plan.

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e) <u>The Flaws in The Analysis Require Further Revision and Recirculation</u>

For all of the reasons above, the RDEIR must be revised and recirculated again so that decision makers and members of the public will be fully informed of the project's GHG emission impacts and the appropriateness of the mitigation measures selected.

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3) Transportation and Traffic:

The RDEIR did not update the Traffic Impact Study in Appendix I and there were only a few minor edits in the Transportation and Traffic chapter. Please see our prior comments in the July 2016 letter. In addition, we ask that the County correct an intersection phasing

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mismatch for the Camino Tassajara/Hansen intersection that was inconsistent with signal timing sheets provided by the Town of Danville. Although the RDEIR acknowledges that there is a +5.0-second change in delay when the correct phasing is applied, the RDEIR failed to update the numbers in the Tables to show the additional delays. In particular, notes have been added ("Note 1") to Tables 3.12-7, 3.12-10, and 3.12-13 in the RDEIR that acknowledge the coding mismatch. The RDEIR also explains that application of the correct phasing did not change the LOS but did increase delay by +5 seconds. Yet, the Tables still show the same delays reported in the DEIR. Please revise and update the relevant tables to show the recalculated delays for this intersection. 43

4) Aesthetics, Light, and Glare:

In addition to the comments in our July 2016 letter, please:

- explain why the RDEIR deleted any references to General Plan goals LU3.8-3-A ("protection of agriculture and open space")and 9-9 ("preserve open space lands located outside the Urban Limit Line"; "County shall not designate any open space land located outside the ULL for an urban use") when they were included in the DEIR (RDEIR, pp. 3.1-3 to -4); and 44
- explain if the RDEIR has adopted a new significance threshold for Impact AES-2 ("substantially degrade the existing visual character or quality of the site and its surroundings") where the RDEIR includes new text explaining that a visual change "must alter either the visual character or quality in a substantially negative way to be considered a significant impact" (RDEIR, p. 3.1-18). 45

5) Agricultural Resources:

The RDEIR provides five reasons why the Project site "would not be considered Prime Agricultural Lands." (RDEIR, p. 3.2-13.) Please provide citations to and copies of supporting studies or other substantial evidence supporting the five statements (e.g., "on-site irrigation is not feasible due to limited groundwater availability"). 46

6) Biological Resources:

The RDEIR revised mitigation measure (MM) BIO-3, subdivision (e), to provide that, if mitigation credits are purchased in lieu of creating waters of the U.S. and State on the Project site, "the mitigation ratio would be a minimum of 1:1." (RDEIR, p. 3.4-77.) Where is the substantial evidence to support this mitigation ratio? MM BIO-3, subdivision (b), provides that "[a]t a minimum, all impacts to waters of the U.S. and State would be compensated for via creation and preservation of new waters of the U.S. and State at a minimum of 2:1 (creation to impact) ratio." (RDEIR, p. 3.4-76.) Why does the EIR conclude 47

that a 2:1 ratio is necessary if the Project creates waters of the U.S. and State but only a 1:1 minimum ratio is necessary if mitigation credits are purchased? 47 CONT

B. The RDEIR improperly fails to discuss any additional mitigation measures or alternatives that could feasibly avoid or lessen the Project's significant and unavoidable impacts.

The RDEIR adds a new significant and unavoidable impact (Impact AIR-1) to the other five previously-identified significant and unavoidable GHG and transportation impacts. (RDEIR, p. ES-2 to ES-3.) And the RDEIR reveals that the project applicant is ready and willing to provide $4 million dollars or more in payment for a preservation agreement MOU. (RDEIR, p. 2-21.) Yet, the RDEIR failed to provide any new mitigation measures or alternatives that would avoid or substantially lessen any of the significant and unavoidable impacts. Why couldn't the $4 million dollars be used to increase the percentage of solar energy generated onsite, or to provide for transportation infrastructure improvements, or even to purchase a different site located within the Urban Limit Line that would avoid so many of the significant impacts caused by allowing this leapfrog development? Please also respond to our prior comments in the July 2016 letter about the alternatives analysis. 48

IV. Conclusion

As noted above, we request that the County provide responses to our comments in the July 2016 letter as well as the additional comments above that are specific to the new and revised text in the RDEIR. The absence of comments on a particular topic in this letter should *not* be taken as any implicit abandonment of prior comments in the July 2016 letter and is *not* an acknowledgement that the RDEIR has adequately responded to those prior comments. 49

Very truly yours,

Joseph A. Calabrigo
Town Manager

cc: Mayor and Town Council
Supervisor Anderson, District 2
Sabrina Teller & L. Elizabeth Sarine, Remy Moose Manley, LLP

Enclosures

Attachment A:	Town of Danville, July 18, 2016 Comment Letter on the Draft EIR for the Tassajara Parks Project (without Attachments 1-8)
Attachment B:	Excerpts from the Contra Costa County, December 15, 2015 Climate Action Plan. The full document is incorporated by reference, and available online at: http://www.co.contra-costa.ca.us/4554/Climate-Action-Plan
Attachment C:	Excerpts from the Bay Area Air Quality Management District, CEQA Guidelines Update May 2011. The full document is incorporated by reference, and available online at: http://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/CEQA/BAAQMD%20CEQA%20Guidelines%20May%202011.ashx?la=en
Attachment D:	Excerpts from the California Air Pollution Control Officers Association, January 2008 whitepaper titled CEQA & Climate Change. The full document is incorporated by reference, and available online at: http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA-White-Paper.pdf
Attachment E:	Excerpts from the Bay Area Air Quality Management District, Clean Air Plan 2010. The full document is available online at: http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans

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Town of Danville (DAN)

Response to DAN-1
The comment is noted. The issue raised by the commenter addresses the merits of the Project and does not raise any issues with the environmental analysis provided in the RDEIR. The commenter requests to be notified of future public meetings has been acknowledged, and future notice of all such public meetings will be forwarded as appropriate and consistent with the relevant agency's noticing procedures.

Response to DAN-2
Please refer to Master Response 2, Memorandum of Understanding, Subsection 1.

Response to DAN-3
Please see Master Response 2: Memorandum of Understanding, Subsection 1.

Response to DAN-4
Please see Master Response 2: Memorandum of Understanding, Subsection 2.

Response to DAN-5
The issue raised by the commenter addresses the merits of the Project and the Agricultural Preservation Agreement (previously referred to as the Memorandum of Understanding), and does not raise any specific Project-related environmental issues under CEQA, and, therefore, no further response is required. Please also see Master Response 2: Memorandum of Understanding.

Response to DAN-6
The comment is noted. The issue raised by the commenter addresses the merits of the Project and does not raise any specific Project-related environmental issues under CEQA, and, therefore, no further response is required.

Response to DAN-7
With respect to Utilities and Service Systems comments, the commenter notes the recycled water option has been replaced by an off-site water conservation option, and that the CPUD option remains unchanged, and, therefore, its comments sent in its July 2016 letter related to the CPUD option still require a response. The comment is noted. Please see Master Response 1: Water Supply and Distribution, which explains that the CPUD option is no longer being pursued and otherwise provides additional discussion of the issue of water supply.

Response to DAN-8
It appears that this comment relies on the commenter's incorrect conversion of the proposed Project demand of 48 acre-feet per year (AFY) identified in the RDEIR to units of millions of gallons per day. Forty-eight AFY is approximately 2.09 million cubic feet per year (i.e., 48 acre-feet multiplied by about 43,560 cubic feet per acre-foot), or about 15.6 million gallons per year (i.e., the 2.09 cubic feet per year multiplied by about 7.48 gallons per cubic foot). The average daily demand is about 0.043 million gallons per day (mgd). However, the commenter asserts that the water demand is about 15.6 million gallons per day, which overstates the demand by a factor of 365. Using the correct demand expressed in mgd, the proposed Project demand would be approximately 2 percent of the 2 mgd to be developed from implementation of the Level E conservation measures documented in EBMUD's "Water Supply Management Program 2040 Final Plan" (i.e., 0.043 mgd average daily demand of

proposed Project divided by 2 mgd conservation from Level E conservation actions). Therefore, implementation of a small fraction of the Level E conservation actions would develop sufficient water savings to offset the proposed Project water demand. This is the case utilizing the demand figure of 48 AFY (as documented in the WSE) and remains to be the case even if the higher estimate set forth in the third party evaluation were conservatively assumed.

Response to DAN-9
Refer to DAN-8 above.

Response to DAN-10
The BAAQMD's 1,100 metric ton (MT) carbon dioxide equivalent (CO_2e) per year threshold is intended to provide a screening level for small projects. The threshold is based on analysis of development related emissions to determine an appropriate small project cutoff point that would not interfere with the region achieving a 2.3 percent reduction by 2020. The BAAQMD Proposed Air Quality CEQA Thresholds of Significance analysis indicated that a threshold set at 1,100 MT CO_2e per year would capture 59 percent of projects that generate 92 percent of emissions. Projects that exceed the bright line threshold must demonstrate that they achieve a 26 percent reduction in GHG emissions, which was determined to be 4.6 MT CO_2e per service population. Service population is the sum of people and jobs served by the project. The BAAQMD threshold justification analysis was based on the reductions needed for the Bay Area to achieve its fair share of the 2020 target. The threshold is based on the Project's impact in the 2020 target year consistent with assumptions incorporated into the RDEIR about the timing for Project development and phasing of same. Once constructed, Project emissions would continue to decline as the vehicles owned by the residents are replaced with more efficient ones compliant with LEV III standards and the electricity utility provides an increasing share of renewable energy under the Renewable Portfolio Standard. Although the BAAQMD CEQA Guidelines were withdrawn due to an ongoing legal challenge, the thresholds document includes substantial evidence that the lead agency can consider and use to justify reliance on said thresholds. The California Supreme Court in the Newhall Ranch case only indicates that "over time consistency with 2020 goals will become a less definitive guide, especially for long term projects that will not begin operations for several years." For the reasons set forth in the RDEIR, the County has determined that this adopted threshold remains appropriate and is supported by substantial evidence in the record. SB 32 provides a new statewide goal of reducing emissions by 40 percent below 1990 emissions by 2030. The California Air Resources Board (ARB) has begun the process of preparing a Scoping Plan 2030 Update that will identify the State's strategy for achieving the new target, but has not been finalized and adopted by the ARB as of the date of this FEIR. Once the 2030 Update has been adopted and the reductions needed from each source sector have been identified, it will be possible to determine a fair share of impacts from new development and to develop new project thresholds. Without this updated adopted Scoping Plan, the reductions required from new development are not known because the primary development related emission sources (motor vehicles, electricity usage, and natural gas usage) are expected to continue to be the targets of multiple state regulations and programs that are yet to be determined. It is impossible to determine plan consistency when the adopted plan does not yet exist. One could speculate that new projects should fully mitigate their emissions by purchasing GHG offsets, but this would not meet nexus requirements for determining a fair share since it is highly likely that most emissions required to achieve the target will be accomplished through regulation and technological advancement that

apply to both new and existing development and not from CEQA mitigation. The BAAQMD's gap analysis for the 2020 threshold found that only a 2.3 percent reduction beyond the existing regulation was required for the Bay Area to achieve its fair share and this gap has decreased since the thresholds were prepared.

Response to DAN-11

The RDEIR disclosed Project construction emissions as recommended by the BAAQMD and included amortized construction emissions in its assessment of the Project's significance and its relationship to Assembly Bill (AB) 32 goals based on the BAAQMD operational threshold. Adding the construction emissions to the operational emissions provides a more conservative analysis of the Project's contribution (see BAAQMD Guidelines page 8-7). The Guidance does not provide a construction threshold and leaves it is up to the Lead Agency to determine significance. Therefore, the Project is consistent with the BAAQMD guidance.

Response to DAN-12

See Response to Comment DAN-11 regarding construction emissions. The RDEIR on page 3.3-41 found the impacts to the Clean Air Plan significant and unavoidable because the Project exceeded the service population threshold. Although impacts on climate change were found to be significant and unavoidable, the Project is supportive of numerous critical aspects of the Clean Air Plan, such as conformance with the energy efficiency requirements of the California Building Standards Code, also known as Title 24; commitment to generating 10 percent of Project emissions from renewable sources (PV solar) and to use solar water heating throughout the Project; and implementation of landscaping, including trees, on-site. These Project features demonstrate compliance with the Clean Air Plan's relevant Energy Efficiency, Renewable Energy, and Urban Heat Island Mitigation and Shade Tree Planting measures. The BAAQMD threshold for GHG is not currently in place due to legal challenge of the CEQA Air Quality Guidelines in *CBIA v. BAAQMD*. Therefore, no BAAQMD adopted thresholds for GHG emissions currently exist. The County utilized the service population thresholds because they are supported by substantial evidence and made its own conclusion as to their use for this Project. Although reducing GHG emissions to protect the climate is a key goal for this plan, the Clean Air Plan states that "the Clean Air Plan is not intended to serve as a comprehensive regional climate protection plan. Instead, the Clean Air Plan focuses on integrating climate protection into the control strategy to reduce criteria pollutants and air toxics." The Lead Agency is encouraged to incorporate Best Management Practices (BMPs) to reduce GHG emissions during construction, as applicable. BMPs may include, but are not limited to: using alternative fueled (e.g., biodiesel, electric) construction vehicles/equipment of at least 15 percent of the fleet; using local building materials of at least 10 percent; and recycling or reusing at least 50 percent of construction waste or demolition materials. According to biodiesel.org, the nearest biodiesel fueling locations are in Berkeley. No biodiesel fuel stations were listed in the Diablo Valley and Livermore/Pleasanton area. There is a biofuel delivery service located in Pleasant Hill, but it is unknown if the equipment that will be used for the Project can safely use biodiesel without compromising the equipment. California Green Building Standards Code (CALGreen) now requires construction waste recycling, so this measure is required by regulation.

Response to DAN-13

The RDEIR included a full explanation of the Project's consistency with LUT-4 on page 3.3-71. Under the commenter's interpretation, any development proposed outside 0.25 mile from an express bus stop or 0.5 mile from a Bay Area Rapid Transit (BART) station would be inconsistent with the policy. Encouraging a certain type of development in one area (high-density) as stated in the policy does not preclude development of other types in other areas of the County. The implementation measure for LUT-4 on page 85 of the County's Climate Action Plan (CAP) includes a performance target of 54,400 BART "extension" trips taken by unincorporated County residents. Extension trips are mostly made by people driving cars to the nearest BART station. Some trips can be made by carpools, vanpools, or transit. This means that the reductions claimed for LUT-4 are achieved by County residents that mostly live distances beyond 0.5 mile from the BART station. In addition, BART stations within the County appear to be in cities and not in the unincorporated areas of the County. There are no express buses or concentrations of people near the Project that would be conducive to siting a future express bus stop, so the Project would not interfere with the siting of express bus stops at other locations.

Response to DAN-14

The RDEIR discussed compliance with Executive Orders (EOs) S-3-05 and B-30-15 on page 3.3-75. A change in executive leadership can result in change or elimination of the Executive Order with no legislative process or input and EOs have no authority over local government actions. With the signing of SB 32 on September 8, 2016, the State now has a new codified goal for 2030 but not 2050. SB 32 requires the ARB to approve a statewide GHG emissions limit equivalent to the statewide GHG emissions level in 1990 to be achieved by 2020 and to adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective GHG emissions reductions. The Legislature in its collective wisdom limited its action to a time period (14 years) that is possible to develop a comprehensive strategy with fully feasible control measures. Longer-term air quality plans such as those in Extreme Ozone Nonattainment Areas allow for the use of a "black box" that includes commitments to identify control measures later when no feasible and cost effective technology currently exists. This situation applies to long-range GHG goals that are dependent on yet to be proven vehicle and energy production technologies and transformation of the economy. This is the reason for a mid-term 2030 goal.

Response to DAN-15

It is entirely possible for a project to have some factors that are not completely consistent with every policy in every plan and to still be determined to be consistent overall with the plan at issue and thus be found to have a less than significant impact. Analyzing consistency with plans requires the application of judgment as to the applicability of the plan's policies to a particular project. In many cases policies provide general guidance but do not preclude alternative actions. Plans also often address complicated issues and therefore competing interests; thus, plan consistency involves consideration of policies viewed holistically rather than in isolated fashion. A finding of consistency does not require 100 percent agreement with every nuance or provision of every policy. Rather, the inconsistency that would be required in order to be considered to have a significant impact for purposes of CEQA would be one found to substantially impair the ability to implement the plan's overall goals, policies and objectives when viewed as a whole. For Impact 7, exceeding the service population threshold does not have a substantial effect on the State's ability to achieve AB 32 Scoping

Plan targets and the County's CAP. The BAAQMD Clean Air Plan is not intended to serve as a comprehensive regional climate protection plan. Instead, the Clean Air Plan focuses on integrating climate protection into the control strategy to reduce criteria pollutants and air toxics. Therefore, the Clean Air Plan does not meet the requirement as an "applicable plan" for purposes of determining impacts under CEQA. CEQA Guidelines 15064.4 states that "such requirements must be adopted by the relevant public agency through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions." The CEQA Guidelines requires lead agencies to consider the extent to which the project complies with applicable plans. The County has considered the extent to which the Project complies and concluded that although the project would exceed the service population threshold, other measures of plan consistency should be given more weight when assessing whether the Project should be considered to be inconsistent to the extent that would result in a significant impact under CEQA. When looking at the plans in a hierarchy, the County's CAP is the most important because the Project is within the County's jurisdiction and the County's intent was for projects consistent with the County's CAP to be considered to have less than significant impacts. The Scoping Plan is the next most important plan to reduce GHG emissions because it is the source of the target for which the other plans strive to achieve. The County's CAP is consistent with the Scoping Plan. In contrast, the BAAQMD Clean Air Plan is primarily a criteria pollutant plan and only has a tenuous connection to project GHG emissions.

Response to DAN-16
The commenter's opinion that the thresholds are out of date is incorrect. Based on evidence in the administrative record, the Project is expected to be constructed by the 2020 target year and would therefore be part of the emissions considered by the BAAQMD in setting the threshold. New thresholds supported by substantial evidence have not been developed because the data necessary to determine a fair share from new development is dependent on the completion of the ARB Scoping Plan update with its new emission inventories, growth forecasts, and control strategy (which have not yet been finalized).

Response to DAN-17
Adding the annualized construction emissions only makes the analysis more conservative when using an annual threshold, and thus, if anything, it skews towards this more conservative analysis. There are no multi-year cumulative emission based thresholds in existence or proposed by any agency or organization. Prematurely assessing Project emissions in a distant future year without appropriate, adopted thresholds supported by substantial evidence would involve speculation as to the Project's fair share of the impact, which would not be proper for purposes of evaluation under CEQA.

Response to DAN-18
The County strongly disagrees with this characterization. The County finds that Measure LUT-4 does not preclude the approval of development proposals outside the 0.25- and 0.5-mile radius from transit/BART stops. The County's CAP claims no additional emission reductions from increasing densities near transit. The cities that have these facilities may claim credit, but the County appears to have no stops for which this measure would apply.

Response to DAN-19
SB 32 was signed on September 10, 2017. The RDEIR was completed by the consultant and under County review at the time of signature by the Governor and was circulated for public review beginning

September 19, 2016. CEQA does not require the Lead Agency to include information in the RDEIR that was not known at the time the EIR was prepared. In any case, SB 32 only starts the process of developing new threshold approaches and methods for addressing the new goal in CEQA documents and climate action plans. Knowing the statewide goal does not enable a local government to identify its fair share of reductions needed to demonstrate consistency with the goal. Some or all of the reductions needed to achieve the goal could be in the form of regulations that apply to all areas of the State. New Business as Usual (BAU) inventories and the State's control strategy from the Scoping Plan Update are needed to estimate a local and project level fair share. See also Response to DAN-15.

Response to DAN-20

In order to be considered an "applicable plan" under Impact 7 for purposes of evaluating impacts under CEQA, the BAAQMD Clean Air Plan would need to have included particular requirements that ensure the Project's cumulative contribution is not cumulatively considerable, which is not the case.

CEQA Guidelines 15064(h)(3) provides: "Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable." The BAAQMD has no jurisdiction over the affected resource of GHG emissions and the Clean Air Plan explicitly states that it is not intended to serve as a regional climate protection plan and does not contain specific requirements that, when imposed on specific projects, would ensure that a project's cumulative contribution would not be cumulatively considerable. The Clean Air Plan at page 1-22 states: "Although reducing greenhouse gas emissions to protect the climate is a key goal for this plan, the [Clean Air Plan] is not intended to serve as a comprehensive regional climate protection plan. Instead, the [Clean Air Plan] focuses on integrating climate protection into the control strategy to reduce criteria pollutants and air toxics."

Since the BAAQMD Clean Air Plan does not meet the requirements of an applicable plan that is the basis for analysis of Impact AIR-7, the Project is not required to show consistency for purposes of determining potential CEQA impacts. Implementation of this plan would not ensure that the Project's contribution is not cumulatively considerable. Therefore, inconsistency with Impact-AIR-1, which is included in the CEQA checklist for criteria pollutants, does not require a finding of inconsistency with Impact AIR-7, which applies only to plans specifically adopted to meet the criteria stated above in connection with the affected resource of GHG emissions.

Response to DAN-21

The analysis of the County's CAP under Impact AIR-6 is adequate. The analysis provided under Impact AIR-6 is quantitative in nature and is separate from the plan consistency analysis under Impact AIR-7. The Project can be determined consistent with the County's CAP and yet not meet one of the quantitative tests used to assess significance. Repeating the plan consistency analysis under Impact AIR-6 is not required. Under the BAAQMD's threshold approach, the County could have stopped its GHG analysis with the assessment of compliance with the qualified GHG reduction strategy (the County's CAP) and not completed a quantitative assessment. Instead, the County took

the more conservative approach to ensure full disclosure by including the quantitative analysis for comparison with the 1,100 MT CO_2e screening threshold and the 4.6 MT CO_2e/SP/year threshold as part of the assessment. The County's CAP does not require individual projects to achieve the 4.6 MT CO_2e threshold in order to achieve its 2020 target. Based on the BAAQMD's plan consistency threshold, the Project is less than significant. The service population threshold, which is a less relevant measure of the Project's impact on climate change, shows the Project would have a significant impact. This means that the service population threshold is more stringent than needed for the County to achieve its primary goal as delineated in the County's CAP, which is consistent with AB 32 targets and adequate progress towards the later targets. Nevertheless, for purposes of a conservative analysis, the County has retained the service population analysis in the RDEIR and found Impact AIR-6 significant and unavoidable with all feasible mitigation applied. It is important to note that the Project can exceed the quantitative service population threshold, and yet be considered fully consistent with the County's CAP and the AB 32 Scoping Plan, which, based on current projections, do not require additional reductions from development projects that exceed the threshold to achieve their goals. The regulations and programs in place are adequate for all projects and existing development to reach 2020 targets. Achieving the goals of the plans is a more important consideration.

Response to DAN-22

The commenter appears to be confusing the BAAQMD Clean Air Plan with the County's CAP. AIR-7 assesses the Project's consistency with the County's CAP. AIR-1 assesses the Project's consistency with the BAAQMD's Clean Air Plan, which is not a qualified GHG plan as envisioned by CEQA Guidelines 15064. Impact AIR-6 assesses the Project's impacts utilizing a quantitative analysis in comparison with the bright line and service population thresholds. Significance by this criterion does not mean that the plans assessed under AIR-7 are also significant. Making Impact AIR-7 significant would not result in a different outcome, but would ignore the results of the analysis, which concluded that the Project is consistent with the plans by the criteria specifically designed for determining consistency with those plans.

Response to DAN-23

The commenter's assertions are incorrect. Project operational GHG emissions decline with time through compliance with existing regulations, so the annual emissions after 2020 will be lower with no additional action by the developer, the County, or the State. Additional regulations will be adopted to implement the 2030 Scoping Plan Update that will apply to Project sources. In fact, most reductions to achieve the 2030 target will be obtained from regulations that affect existing sources. With a State growth rate of less than one percent per year, new emissions will comprise less than 10 percent of the emissions inventory in 2030 and existing sources will comprise over 90 percent of the inventory. Regulations and programs to reduce emissions from existing sources will therefore comprise the vast majority of reductions needed. New development, including the Project, will do more than existing development in terms of reducing emissions through compliance with building-related energy efficiency requirements that are on a path to "zero net energy" by 2020 for residential development and 2030 for non-residential development. Water conservation measures will also result in greater reductions for both indoor and outdoor water use in new development compared to existing uses. SB 32 was not adopted prior to preparation of the RDEIR, so no legislated

mandate existed that would require it to be addressed or to identify a project fair share amount for purposes of evaluating impacts under CEQA.

Response to DAN-24

The commenter's description of a project not being complete until the end of its operational life span is contrary to established CEQA practice. For GHG analysis, annual emissions compared to an annual target is the appropriate methodology. For CEQA purposes, the Project is permanent, since no future approvals are required that would force the owner to tear the homes down. Therefore, for purposes of CEQA, the Project is "complete" at buildout, which is when it would result in its maximum amount of emissions. GHG emissions decline each year through compliance with the existing regulatory regime, so they are highest at buildout. GHG targets are based on reducing California's annual emissions inventory to the level provided in the Scoping Plan to meet AB 32 targets. If the homes are replaced through redevelopment in the future, they will be subject to the standards in place at that time. In addition, Project homeowners can readily add solar panels and EV chargers when panels are less costly in the future. The homes would be solar and EV ready (consistent with CALGreen standards), making future retrofits easier. The use of a project life to determine an annualized impact from construction is a conservative disclosure of the impacts from construction. Thirty years is a reasonable length of time until a home is likely to need a major renovation or remodeling. This is not to be confused with a project life as is used for a mining operation that sets an end date to mining activities. Creating a 2030 or 2050 goal for CAPs and for purposes of a CEQA threshold requires data regarding the future year inventories and state control strategy to identify a County fair share and a project fair share, which has yet to be developed. Analyzing Project impacts on achieving 2030 and 2050 goals would require speculation, which is not proper for purposes of evaluating CEQA impacts. Attaining the 2050 goal will require yet to be developed technologies and near complete transition away from fossil fuels. It would be speculative to require a project built today to comply with yet to be developed standards with unknown technologies.

The thresholds used for this Project are not based on the 30-year cumulative emissions because the cumulative emissions are speculative and not a reasonable measure of the Project's impact. Instead, as properly analyzed under CEQA, the thresholds are based on annual emissions in the milestone year. As long as total emissions from all GHG sources in the State reach the 2020 target, the State is on track toward achieving its goal. The next increment for the State with the passage of SB 32 will be 2030. New thresholds will be based on ensuring that annual emissions in 2030 from all sources are 40 percent below the 2020 target. Without the adopted Scoping Plan Update and the complete data behind the adopted Scoping Plan Update, the amount required by the Bay Area, Contra Costa County, and projects within Contra Costa County cannot be determined. Assigning a value to the Project without this information would require speculation not consistent with CEQA.

Response to DAN-25

The SB 32 2030 target was not in place at the time the RDEIR was prepared. As described in Response to DAN-10 and DAN-14, CEQA recognizes that requiring a lead agency to revise a CEQA document whenever new information is released would result in endless changes to environmental documents and unacceptable delays in the process. Most emission reductions to achieve post 2020 targets will come from existing development just as it has for achieving the 2020 target. Most GHG emission reduction measures will apply to sources outside the building envelope of new projects.

The largest source is transportation, which will be reduced by new vehicles required to achieve updated emission standards and related low carbon fuel use. The County's CAP provided an estimate of the BAU emissions in 2035 and the reductions required beyond existing regulations to reach the target. The amount is labeled as "reductions needed from local actions" but was prepared prior to SB 32 and the 2030 Scoping Plan Update now under development by the ARB. The reductions anticipated from local measures are 133,670 MT CO_2e in 2035. The reductions required to reach the 2035 goal shown in the County's CAP Figure 3.3 is 626,630 if no additional statewide measures were implemented. The County's CAP would provide approximately 21 percent of the reductions required. Importantly, Chapter 4 GHG Reduction Strategy only provides a consistency demonstration for the 2020 target and did not provide a consistency determination for 2035 since new State and possibly local measures will be needed in future County CAP updates to achieve this 2035 target. The County's CAP on page 74 states" Complete implementation of the [County's CAP] will allow the County to achieve a 16 percent reduction of GHG emissions below 2005 levels by 2020 and will set the County on a trajectory to achieve the state GHG reduction target set by Executive Order S-3-05 of reducing GHG emissions 80 percent below 1990 levels by 2050." The Project can be determined consistent with all applicable measures in the County's CAP including those in place used to estimate the 2035 reductions. Any County CAP measures implemented after the Project buildout is complete would necessarily not apply to the Project since they would not have been in effect while the Project is being constructed. No additional analysis is required because Project consistency is based on what is in place and would apply to the development at hand, and not future measures remaining to be implemented. A quantitative 2035 threshold for Project impacts does not exist and would require data yet to be developed to ensure that it reflects a fair share of reductions from new development and existing development. See also Response to Comment DAN-14 regarding Executive Orders.

Response to DAN-26

As noted, GHG impacts are inherently cumulative and as recognized by the California Supreme Court in the Newhall Ranch case, no project alone would result in a significant impact on climate change. The County's CAP serves as the primary means to address the cumulative impact of County growth on climate change. A comparison with other projects in the County is not required because the fair share has already been determined at the plan level. Projects that comply with the applicable measures in the plan should be considered to have less than significant impacts. Although the commenter asserts that the Project is not consistent with the County CAP Measure LUT-4, this is contrary to the County's determination of consistency as described in Response to DAN-13. The County conducted additional analysis using other measures of cumulative significance. The reduction from BAU analysis showed consistency with AB 32 Scoping Plan and County CAP targets. The Project would exceed the percentage reduction from BAU required by the State from all sources by 8.4 percent and the County's CAP by 14.4 percent. Although there is no ironclad measure of consistency with State targets at the project level, exceeding the average reduction required by this amount shows that the GHG emissions from project sources are heavily regulated compared to other emission sectors, supporting the finding that the Project is doing its fair share to achieve State targets.

Response to DAN-27

The basis and logic of the comment is fundamentally flawed. The commenter is confusing an annual threshold based on annual emissions in a target year with a novel approach that adds all the

projected emissions for the Project for 30 years into the future for comparison to a non-existent standard. The applicable State goal is based on annual emissions in 2020, not California's total cumulative contribution between now and the target year. Annual emissions are a performance target based on reducing the statewide annual inventory to 1990 levels by 2020. The emissions over project life are not the standard of comparison. The standard of comparison is a project's annual contribution in the milestone year. As stated in the RDEIR, amortizing construction emissions over the life of the Project is a conservative, industry standard method recommended by several air pollution control districts for accounting for the impacts of construction on the annual average emission rate.

Response to DAN-28

The comment is noted. The corrected tables 3.3-27 and 3.3-28 are included in Section 4, Changes to the Recirculated Draft EIR/Errata of the Final EIR. This correction merely clarifies and amplifies the analysis and makes no difference in its conclusions or significance findings of the RDEIR or otherwise trigger recirculation.

Response to DAN-29

The County's CAP presents the 2035 emission inventory without new state measures required for the 2030 Scoping Plan Update now under development. The County's CAP calculates reductions from local measures in 2035, but does not include a 2035 target. The County recognized that it would need to integrate post-2020 State measures and regulations into estimates of the amount needed from local measures in a future update to the County's CAP. The State is projected to grow at about 0.8 percent per year. At that rate, in the 13 years from 2017 to 2030, population would grow about 10 percent. This means development existing today will be responsible for 90 percent of the emissions in 2030.

The referenced studies describing potential pathways to achieve long-term targets is from the document Energy & Environmental Economics (E3).[1]

The statement that emissions will go down after occupancy is based on objective facts. The residents of the Project would become "existing development" on the day the residents move in. At that point, regulations with phase in schedules that apply to vehicles, low carbon fuels, and power generation with renewable fuels would provide additional reductions and the next generation of regulations and technologies will be adopted that will apply to all the projects emissions sources except for those related to the building structure.

The gap analysis used to prepare the BAAQMD thresholds is based on predicted growth rates and regulations in place prior to 2010 when the CEQA Guidelines were adopted. The State has closed the gap with its adopted regulatory program and now the ARB and the Governor predict the 2020 target on schedule with no reductions required from project CEQA mitigation. The County's CAP local measures achieve reductions from sources that apply to new and existing development. For example, the single largest local measure, Solid Waste, provides 64 percent of the local reductions and applies to all new and existing development with no additional requirements for new

[1] California State Agencies' Pathways Project: Long—Term Greenhouse Gas Reductions Scenarios. 2014. Website: https://ethree.com /public_projects/energy_principals_study.php.

development. Most of the County's CAP energy efficiency reductions are from retrofits of existing homes. For example, the County's CAP assumes only 12 new homes will be zero net energy by 2020.

Response to DAN-30
See Responses to Comments DAN-31 and DAN-48.

Response to DAN-31
The RDEIR estimated emissions from Project energy use at 434 MT CO_2e/year. If the Project produced all of its electricity with solar, Project emissions reduced from electricity use (229.34 MT CO_2e) would result in a service population (SP) emissions of 4.69 MT CO_2e/SP, which is still higher than the SP threshold of 4.60 MT CO2e. If the Project homes were all electric, the service population emissions would amount to 4.24 MT CO_2e/SP, which is only slightly below the threshold. Prior to designing the homes, it is not possible to determine if each home will have the roof area and sun exposure to achieve 100 percent solar, so full offset of electricity emissions cannot be guaranteed.

The reason for selecting 10 percent solar is because homes equipped with solar panels achieve the greatest cost savings on the homeowner's power bills by reducing their peak demand due to the tiered pricing system used by the utilities. Under the tiered pricing, the cost per kilowatt (kWh) of electricity is much higher after exceeding the baseline usage amount. A small system with 10 percent coverage would reduce the highest cost energy at the lowest investment cost. Systems that cover 100 percent of the homes' electricity produce substantially lower savings per kWh and take longer to achieve a return on investment. Electric heating is currently very costly compared to natural gas heating. The cost of natural gas has remained relatively low because of new extraction technologies, and it is more popular with homeowners for this reason and due to its reliability. On-site heating with natural gas is more efficient than electricity because of losses in efficiency at the power plant and from transmission to the end user. See also Response to DAN-32.

The developer has no control over cars owned and operated by future homeowners. Mobile sources make up approximately 69 percent of the Project emissions. Future homeowners will live somewhere. If they live in a more urban area with high quality transit service they may have fewer motor vehicle emissions; however, there is a more likely outcome where the households looking for a single-family home with a yard will drive to the San Joaquin Valley and have even greater motor vehicle emissions than the Project. It is reasonable to assume that there will continue to be a market for households seeking a suburban lifestyle (i.e., single-family detached homes on larger lots), and that these types of homes will continue to be built in more distant areas to meet these market demands. Therefore, providing this type of development in a location closer to employment and urban centers can help decrease the greater motor vehicle emissions that might otherwise occur.

Response to DAN-32
Mitigation Measure AIR-6 requires 10 percent on-site renewable energy to be installed at the Project. The expectation is that PV solar panels would be used to meet the 10-percent requirement, although other options are possible as well. The homes would be individually designed for their lot size and location. At the time the analysis was prepared, the California Energy Commission (CEC) had not yet begun the regulatory development process for the 2019 Title 24 Update. Therefore, the assumptions used to quantify air quality and GHG emissions presented in the RDEIR relied on information that was reasonably available at the time the analysis was prepared. Specifically,

Mitigation Measure AIR-6 identified 10 percent on-site renewable energy to be installed at the Project based on the area of solar-ready area rooftops that would be required through compliance with 2016 Title 24 standards. This analysis also reasonably assumed that the roof area for each unit would (at a minimum) need to accommodate 250 square feet solar zone roof space for single-family residences, which reflected the requirements under 2016 Title 24. Using Sunpower X Series panels would generate approximately 17.3 watts/square foot. Therefore, as documented more fully in the analysis, a minimally compliant solar ready rooftop (assuming 2016 Title 24 requirements) would generate approximately 4.3 kilowatt (kW) with high efficiency panels. Title 24 includes alternative compliance measures that improve the overall energy efficiency of the building for projects that cannot provide the required solar zone roof space. Moreover, as explained more fully below, utilizing the 2016 Title 24 requirements in place at the time the analysis was prepared resulted in a conservative evaluation of this issue. Further, the price of solar panels has been declining at a rapid pace. The advantage of solar ready roofs is that they are easily retrofit in the future at lower than current prices. If energy prices increase, there will be strong market forces encouraging future retrofits on existing homes. In addition, new materials and technologies are likely to be developed that increase the watts per square foot and reduce the energy needs of the home making zero net energy more feasible. Cost data from the California Solar Initiative for Sunpower systems show a cost per installed watt of $4.86. A 4.3 kW system would cost $23,620 and would provide power at about 17 cents/kWh. Whether this is cost-effective depends on the rate charged by the utility and the usage pattern of the consumer. A 7-kWh system, which is the size used in the County's CAP analysis, would cost $34,020. Although the future homeowners would likely recoup the cost over the life of the Project, the initial capital cost would increase the home sale cost and reduce the number of homebuyers that could qualify in an already expensive housing market.

California Code of Regulations, Title 24, Part 11, is a comprehensive and uniform regulatory code for all residential, commercial, and school buildings that went in effect January 1, 2011. The code is updated on a regular basis, with the most recent update consisting of the 2019 CALGreen that became effective January 1, 2020. CALGreen provides the minimum standard that buildings need to meet in order to be certified for occupancy, and is enforced by the local government building or planning department that has jurisdiction for where the building or residence is located. One of the notable changes in the 2019 Title 24 Standards includes the solar photovoltaic systems requirement for new low-rise residential homes. The Project would be required to comply with the applicable Title 24 Energy Efficiency Standards in effect at the time building permits are received. The assumption that the Project would, at a minimum, include 10 percent on-site renewable energy presents a reasonable "worst-case" analysis scenario, as a scenario modeled assuming improvements in technology to meet more stringent regulatory requirements would result in a lower generation of GHG emissions compared to what was analyzed in the RDEIR.

The Green Building Code standards were developed with a thorough public review process with input from manufacturers, builders, and the public to determine feasibility. The County does not have the technical expertise or resources to determine if it is feasible for individual projects to exceed CALGreen, nor are such extraordinary efforts from a local agency required under CEQA. Since CALGreen is mandatory and the Project could not be constructed without compliance with the applicable requirements, feasibility is properly assumed as permitted under CEQA. The State regulatory development process provides the required level of technological expertise and review to

ensure the standards are feasible. The CALGreen Code 2016 report to the legislature provides the following in its introduction:

> "The California Department of Housing and Community Development (HCD) continues to improve the CALGreen Code by looking at new technologies to complement current building practices that aid in conservation and reduce overall ecological impacts. As a regulation, changes to CALGreen entail detailed evaluation, analysis of alternatives and proposed changes, historical knowledge of the code, and information on new developments in sustainable building, related standards, and other codes. Sound rationale must accompany all proposed changes.
> As green building practices become more routine, technology changes, and the public becomes more aware of additional benefits of sustainable building, CALGreen needs to be continuously evaluated to ensure its validity and that it is feasible for the public to take advantage of sustainable building measures in order to improve both indoor and outdoor environments for current and future Californians.
> Because CALGreen is an evolving code and new technologies and methods will continue to evolve in the building industry, continued training will be necessary to ensure that an up-to-date knowledge base is established and maintained in the industry and HCD."

Response to DAN-33
The Project can be determined as consistent with the County's CAP as described in the RDEIR on page 3.3-70. The County's CAP will be enforced as envisioned by the County. The implementation measure for RE-1 is to "Promote the installation of alternative energy facilities on homes and businesses." Promoting alternative energy does not create a standard requiring each residence to install a certain number of solar panels. The commitment to install 10 percent solar unequivocally promotes alternative energy consistent with this policy. No additional analysis on this point is needed because there is no percentage requirement in the policy or elsewhere in State or County regulations.

Response to DAN-34
The modeling assumptions in the County's CAP Appendix D are not performance standards, but instead expected participation rates. The analysis expects that 200 new homes would be built near BART/transit stations by 2020. The CAP assumes that 1,170 homes will be built in the County by between 2013 and 2020. Therefore, RE-1 estimates that 5 percent or 50 homes with 7kW arrays would be constructed by 2020. The CAP predicts growth of 1,170 homes between 2013 and 2020 or 167 units per year. Five percent of 1,170 is 58 homes, and 5 percent of 167 units is 8 homes per year. The Project proposes 125 homes. A 10 percent alternative energy fraction is the equivalent of 12 homes with 100 percent alternative energy, which reflects consistency with measure RE-1.

Response to DAN-35
The commenter's interpretation of this measure is not supported by the wording of the measure and the participation assumptions provided in the County's CAP Appendix D. The statement, "work to increase densities within half mile of a BART station," does not lead to the conclusion that all development will be located within 0.5-mile from a BART station or 0.25 mile from a bus station or will be deemed inconsistent with the plan. Work to increase means to generally encourage.

Encourage is not considered a mandatory action, nor does the County's CAP have the ability to usurp the Board's police power in exercising its discretion in local land use decisions and mandate the location of all future development. Interpreting this language as the commenter suggests would mean that nearly all the planned development in the County would be automatically inconsistent with the County's CAP; it does not appear reasonable that this would be the County's intention. The assumptions used for quantifying this measure are instructive. The County's CAP assumes that 230 new homes will be built near BART or bus stations, yet also assumes that 1,170 new homes will be built in the County. It is obvious from this that the County assumed that a fraction of new homes (about 20 percent) would be constructed in these station areas. That means that the County assumed that 80 percent of homes would be constructed in areas outside the specified radius. The Appendix E checklist includes the N/A box for just such a condition. For projects outside the radius the policy is not applicable. Working to increase densities is desired near stations because more people will be living within walking distance than with lower densities. Developing station areas with lower densities would not take full advantage of the transit service and produce less VMT reductions. For areas farther from the station, density has little effect on transit use because the residents will need to use a vehicle to travel to the station because it is too far to walk. Several BART stations in Contra Costa County have station area plans that try to encourage a walkable urban environment with increased densities in those areas.

Response to DAN-36

The Newhall Ranch case offered several paths to compliance with the ruling. Consistent therewith, the RDEIR included a number of pathways to provide a conservative assessment: (1) The quantitative service population threshold used in the analysis was recommended by the Newhall Ranch Court. (2) The BAAQMD threshold was specifically mentioned in the analysis as well. (3) The 15 percent below 2005 levels recommended by the ARB provides another approach based on consistency with reductions needed by the State to achieve the 2020 target. The County's CAP provides yet another approach, and is also reflected in the analysis. Except for exceeding the quantitative service population threshold by a small amount (and for which a significant impact was identified), the Project was not found to have a significant impact under the other approaches noted above. See also Response to DAN-37.

Response to DAN-37

As explained in DAN-36, the RDEIR analyzed GHG emissions impacts utilizing three different methodologies. The reduction from BAU analysis in the RDEIR discloses to the decision-makers how the Project relates to the statewide average reductions required to reach the 2020 target. Reductions that apply to the Project from regulations alone are 29.4 percent compared to the 21.7 percent required by the State. This indicates that emission sources related to the development are doing 7.7 percent more than average. It is important to note that at the top of the analysis in the RDEIR, the State indicated that it was on track to achieving the 2020 target with adopted regulations. No additional reductions from development projects were required for the State to achieve its target. This means that additional reductions beyond regulations likely would fail a nexus test because the reductions are not required to reduce a significant impact when based on its consistency with statewide plans for reducing GHG emissions. The Project can also be determined consistent with the County's CAP, which claims no CEQA related reductions in its demonstration to achieve the 2020 target.

Response to DAN-38

For purposes of this CEQA analysis, the RDEIR is not required to utilize a threshold other than one based on 2020 goals as described above. Nevertheless, for informational purposes, the following is noted. The commenter's approach would not provide substantial evidence to support a new threshold. Determining a fair share requires knowledge of the complete strategy for reaching the future targets and cannot be determined in isolation. The service population method may also raise issues in connection with meeting the Newhall Ranch ruling tests since it does not identify a fair share for new development. The law does not require that each project reach the average service population in order for the State or Bay Area to reach a 2020 target. This was demonstrated by the State's statements that it had been on track to achieving the 2020 target. The statements did not indicate that the State needs additional reductions from new development to achieve the target beyond those anticipated from implementing existing plans and SB 375.

As explained in Response to DAN-36, the RDEIR analyzed GHG emissions impacts utilizing a number of different methodologies, including assessment of the Project's consistency with the County's CAP and BAAQMD's 4.6 MT CO_2e/SP per year, and was not required to utilize a threshold other than one based on 2020 goals as described above. For informational purposes, the following is noted. The BAAQMD has not yet updated their recommended GHG emissions thresholds to address target reductions past year 2020. However, consistent with current State directives in place at the time this response was drafted, the updated target requires an additional 40 percent reduction in GHG emissions by year 2030. Although a 2030 threshold has not been adopted, if one were to apply the BAAQMD quantitative thresholds based on 2020 AB 32 GHG reduction goals, this would equate to 660 MT CO_2e per year by year 2030 or 2.6 MT CO_2e per year per service population by year 2030.[2] Qualified GHG Strategies remain appropriate if the Project's full buildout year falls within the time horizon covered in the plan and if the plan demonstrates compliance with post-2020 GHG reduction goals.

The County's CAP follows both the State CEQA Guidelines and BAAQMD's Guidelines by incorporating the standard elements of a Qualified GHG Reduction Strategy. Standard elements of a Qualified GHG Reduction Strategy include measures or a group of measures (including performance standards) that demonstrate, based on substantial evidence that, if implemented on a project-by-project basis, would collectively achieve specified emissions levels. Establishing consistency with a qualified GHG reduction plan (per CEQA Guidelines § 15183.5) is an appropriate approach to determining significance for individual projects and is one of the three recommended BAAQMD thresholds established based on AB 32 goals. This approach allows lead agencies to analyze and mitigate the significant effects of GHG emissions at a programmatic level to reduce GHG emissions, so that later individual development projects may tier from the prior analysis for the purposes of evaluating a project's impacts.

As previously noted, an assessment of the Project's consistency with the County's CAP was one of the methodologies included in the analysis. As noted in the RDEIR, the Contra Costa CAP includes

[2] Association of Environmental Professionals (AEP). 2016. Final White Paper Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California. Website: https://califaep.org/docs/AEP-2016_Final_White_Paper.pdf. Accessed January 21, 2020.

analysis for 2020 and 2035 that demonstrate consistency with the AB 32 2020 target and continuing progress toward meeting the 2030 target from Executive Order B-15-03. The CAP provides the necessary strategies to achieve its fair share of the 2020 target and 2030 Executive Order goal. As detailed in the RDEIR, the Project would not interfere with the implementation of the strategies related to transportation and is supportive of strategies related to energy efficiency, water conservation, and solid waste. The Project was not found to have a significant impact related to consistency with the CAP.

The RDEIR also analyzed GHG emissions impacts using the BAAQMD's threshold of 4.6 MT CO_2e/SP per year. The Project's GHG emission generation in the 2020 operational year was found to exceed the 4.6 MT CO_2e/SP per year threshold in both the unmitigated and mitigated scenarios. The impact was determined to be significant and unavoidable. As previously described, the RDEIR is not required to utilize a threshold other than one based on 2020 goals as described above. Nevertheless, the following is noted for information purposes only. For developments that would occur beyond 2020, the service population threshold of significance (4.6 MT CO_2e/SP/year) can be adjusted to a "substantial progress" threshold calculated based on the GHG reduction goals of SB 32/Executive Order B-30-15 and the projected 2030 Statewide population and employment levels. The 2017 Scoping Plan provides an intermediate target that is intended to achieve reasonable progress towards goals for 2050 under Executive Order S-3-05. For informational purposes, the Project's emissions in the 2030 operational year are compared to the adjusted 2.6 MT CO_2e/SP/year threshold in Table 3-1 below. It should be noted that the 2030 emissions shown below were estimated using assumptions consistent with those presented in the RDEIR, which are provided in Appendix B of the RDEIR.

Table 3-1: Project Greenhouse Gas Emissions (2030)

Emissions Source	Unmitigated Emissions (MT CO_2e)	Mitigated Emissions (MT CO_2e)
Area Sources	72	6
Energy	371	354
Mobile (Vehicle)	1,082	1,082
Waste	38	38
Water	21	21
Total Operational Emissions	1,584	1,501
Annualized Construction Emissions	43	43
Total Project Emissions	1,627	1,544
Service Population (SP)	358	358
Project Emission Generation	4.54 MT CO_2e/SP/year	4.31 MT CO_2e/SP/year
2030 GHG Reduction Target Adjusted Threshold	2.60 MT CO_2e/SP/year	2.60 MT CO_2e/SP/year
Significant Impact?	Yes	Yes

As shown in the table above, provided for informational purposes only, the Project's emissions in the 2030 operational year would exceed an adjusted threshold of 2.6 MT CO_2e/SP/year threshold, similar to the impact shown in the RDEIR using the 2020 operational year and the 4.6 MT CO_2e/SP/year threshold.

Response to DAN-39
The Post-2020 targets were not "codified" at the time of preparation of the RDEIR, so the statement regarding this topic in the RDEIR is correct. The process for adopting a legally defensible quantitative GHG threshold is not a simple matter. The effort required is beyond the scope of most lead agencies; hence, the wide reliance on air district developed thresholds and the use of climate action plans. No such formally adopted post-2020 thresholds currently exist. Clearly, the burden of adopting a threshold supported by substantial evidence meeting the requirements of CEQA should not be placed on a 125-unit subdivision. The post-2020 development based inventories and split between reductions anticipated from existing sources and new sources have not been determined. The amount of the reductions required from new development beyond regulations may be zero. Without this data, determining if a gap exists between the amount to be achieved from regulations and the amount needed from new development is not known. Assigning a service population based threshold for post-2020 targets under these conditions would be speculative. Assuming that a net zero reduction is needed is not consistent with well accepted case law that the project is not required to mitigate other projects' (including existing development's) contributions. In addition, when determining what constitutes a cumulative contribution, adding a single additional molecule of pollution is not the rule. Although not adopted, the Concept Draft 2030 Scoping Plan Update relies mostly on technological strategies that will be enforced by regulation. Some small yet-to-be-determined amount is likely to be sought from land use and transportation strategies.

Response to DAN-40
The BAAQMD Clean Air Plan does not meet the requirements of CEQA Guidelines 15064, as described in Response to DAN-15 and DAN-20. Projects that exceed the service population threshold do not automatically interfere with implementation of the applicable plans because they are not reliant on reductions achieved by project mitigation to attain their goals.

Response to DAN-41
No changes to the analysis or the conclusions of the RDEIR are required. The revisions to the RDEIR merely provide clarifications and additional supporting information sufficient to inform the decision-makers regarding the environmental impacts of the Project and do not trigger recirculation.

Response to DAN-42
The delay calculations for the Camino Tassajara/Hansen Lane intersection have been updated throughout the Transportation Section to reflect the revised phasing, as requested by the commenter. Kimley-Horn evaluated intersection phasing in the field and the signal timing sheet provided by the commenter. Dallas permitted phasing (northbound left movement), as previously coded in synchro, was removed and standard permitted phasing on northbound left was coded. This resulted in better operations at this intersection than previously published. Specifically Table 3.12-1, Table 3.12-7, Table 3.12-10, and Table 3.12-13 have been updated to reflect this conclusion. See Section 4, Changes to the RDEIR/Errata for the corrections. Traffic conditions actually improved slightly with the revised phasing; therefore, mitigation is no longer necessary for this intersection.

This updated information and associated revisions clarify the RDEIR analysis and, as shown, improves the operation of the intersection, thereby avoiding the previously identified need for mitigation.

Response to DAN-43
Refer to DAN-42 above

Response to DAN-44
The comment is noted.

Policy 9-9 was moved to the Agricultural Resources section, see page 3.2-10 of the RDEIR.

Policy LU 3.8-3-A was moved to the Land Use section of the RDEIR (see page 3.9-12), where it was included along with several other LU 3.8 policies.

Response to DAN-45
The text referenced by the commenter is not a new standard of significance. The language referred to by the commenter in Impact AES-2 of the RDEIR reiterates the threshold of significance standard that can be found on page 3.1-5 of the RDEIR under c)—"Substantially degrade the existing visual character or quality of the site and its surroundings?"

Response to DAN-46
Support for the five listed reasons why the Project Site "would not be considered Prime Agricultural Lands" are provided below:

1. While portions of the Project Site consisting of Clear Lake Clay have an irrigated capability class of 2, on-site irrigation is not feasible due to limited groundwater availability. This conclusion is based, in part, on known instances of wells in the Project vicinity going dry. Refer to comment letters on the RDEIR from landowners in the Project vicinity identifying this deficit.
2. The Project Site's Storie Index Rating is less than 80.
    - The National Resource Conservation's web soil survey confirms that the vast majority of the site is listed as Grade 4—Poor, which ranges from 21 to 40 on the Storie Index. Only a very small sliver of land along Camino Tassajara has a higher rating, but the area is so small that farming is not feasible. Refer to Table 3.2.4 of the RDEIR's Agricultural Resources section.
3. The Project Site's carrying capacity is less than one animal unit per acre. This conclusion relates to the CKH Act's following clause:
    - Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
4. While 11 decayed walnut trees are located within the 30-acre Residential Development Area, they are no longer maintained and *do not produce* more than $400 dollars per acre of unprocessed agricultural commodities.

- Refer to the Arborist Report provided in Appendix C3 of the RDEIR. The walnut trees have not been maintained or harvested in the recent past and are not of sufficient health to provide significant fruit.

5. While 11 decayed walnut trees are located within the 30-acre Residential Development Area, they are no longer maintained and ***have not produced*** more than $400 dollars per acre for three of the previous five calendar years.

    - Refer to the Arborist Report provided in Appendix C3 of the DEIR. The walnut trees have not been maintained or harvested in the recent past and are not of sufficient health to provide significant fruit.

Response to DAN-47

The Resource Agencies (United States Army Corp of Engineers [USACE] and Regional Water Quality Control Board [RWQCB]) typically require a 2:1 mitigation ratio for "Permittee responsible" wetland creation to account for the temporal loss of wetland functions and services and other factors. However, there is no temporal loss of wetland functions and services when wetland mitigation credits are purchased from an approved wetland mitigation bank where wetlands were constructed in advance as a condition of the bank's approval. Nor does utilization of an established mitigation bank have the same level of uncertainties as "Permittee responsible" wetland creation, which can raise issues of uncertainty about the wetland quality that can be constructed on an untested site, long-term maintenance, and the financial assurances. Therefore a 1:1 mitigation ratio is appropriate if wetland mitigation credits are purchased in lieu of creation of new wetlands, as approved by the resource agencies. Regardless, the mitigation measure conservatively states: "At a minimum, all impacts to waters of the U.S. and State would be compensated for via creation of new waters of the U.S. and State at a 2:1 (creation to impact) ratio, or as otherwise specified in permitting conditions imposed by the USACE and RWQCB."

Response to DAN-48

RDEIR Section 5, Alternatives to the Proposed Project, subsection 5.4.1, page 5-5 provides the analysis of air quality and GHG emissions under the alternatives assessed. The reduced project and the no project alternatives would reduce the significant impacts to air quality and GHG emissions, but would not meet the Project objectives. Therefore, the County was not required to select one of these alternatives. The County considered the mitigation measures suggested for the Project and found that they would substantially reduce GHG impacts but would not reduce the effect to less than significant levels. The RDEIR at page 3.3-68 provides the basis for accepting and rejecting mitigation measures to reduce the Project's significant impact to the extent feasible. The use of offsets for development projects was not adopted as a County's CAP measure because it was not required to achieve the 2020 target. The California Air Pollution Control Officers Association (CAPCOA) has started an offset clearinghouse called the GHGrx. Currently, there are no Bay Area offsets listed in their database. The County and the developer do not have the expertise or resources to manage an emission offset program and to ensure long-term tracking and monitoring of mitigation projects is accomplished. Offsets are difficult to generate because they must be surplus—not required by other regulation; they must provide real reductions as demonstrated by compliance with adopted protocols, and they must be permanent with a means to verify that the project continues operation and achieving reductions in the future. These restrictions make many potential

recipients of offset funding reluctant to accept the administrative burden and make the quality of existing offsets questionable. The County has considered options for funding government mitigation projects directly with developer mitigation fees. Since the County's CAP does not include a County operated offset program, no process to develop and manage such a program has been considered in this RDEIR. Purchase of electric vehicles for government use was considered but determined to be not cost-effective. Electric vehicles without tax incentives can exceed $30,000 per vehicle. The California average for vehicles per household is 2.3. At this rate, the Project residences would have 345 cars (1,349 MT/345 = 3.91). One vehicle would produce approximately 3.91 MT CO_2e/year. Assuming that EVs are zero emission and without counting emissions from increased electricity use, mitigating mobile sources to zero would require the purchase of 345 EVs at $30,000 per vehicle or $10.35 million or $69,000 per dwelling unit. Mitigating the Project's total emissions (1,816 MT CO_2e) would require the purchase of 464 vehicles for $13.9 million. The cost-effectiveness in dollars per ton without using a capital recovery rate (which would make the cost-effectiveness much worse) is $765 per ton. If operated as an incentive program with funds only provided for incremental costs of electric vehicles, cost effectiveness would be better, but the amount needed to incentivize someone to purchase an EV beyond that available from existing tax credits and incentive programs is unknown and would be difficult to prove as being surplus because of existing programs and mandates that apply to the manufacturers. The low estimate of cost-effectiveness of $765 per ton for EVs should not be considered feasible when planned regulations with net savings to end users are available and offsets may be purchased from national and international GHG offset exchanges for less than $10 per ton. The quality of those offsets is not known but could be verified in some exchanges. Using the GHGrx would provide some assurance that the offsets meet all requirements, but currently there are no Bay Area offsets in the exchange.

Response to DAN-49
The comment is noted.

Response to DAN-50
This comment is a reprinting of the comment letter on the DEIR. Responses 1–49 above address the issues raised in comment 50.

DUBLIN
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BACKYARD

SENT VIA US MAIL AND E-MAIL (john.oborne@dcd.cccounty.us)

November 29, 2016

CONTRA COSTA
2016 DEC -6 A 11:01
DEPARTMENT OF CONSERVATION AND DEVELOPMENT

John Oborne, Project Planner
Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553-4601

Subject: Comments on Tassajara Parks DEIR
Agency Comment Request dated 5/12/2016

Dear Mr. Oborne:

Thank you for giving us the opportunity to review and provide comment on the Recirculated Draft Environmental Impact Report (R-DEIR) for the Tassajara Parks Project (formerly New Farm) 1

The City of Dublin previously submitted comments to your office in response to an Agency Comment Request dated February 26, 2013. These similar comments were included in response to subsequent Agency Comment Requests dated February 28, 2014, February 10, 2015, and June 6, 2016. It does not appear that the DEIR has addressed our previous comments, listed again below and attached for reference.

1. The project will potentially increase traffic along Tassajara Road, Fallon Road, and Dublin Boulevard in the City of Dublin. Prior to initiation of a traffic analysis for the project, please coordinate with the City of Dublin regarding locations of traffic counts and the list of intersections that should be included in the analysis, as well as the trip distribution and the land use assumptions that should be incorporated into the travel demand model. 2

2. The project will potentially generate significant heavy construction traffic on Tassajara Road, Fallon Road and Dublin Boulevard. Such heavy construction traffic is expected during site grading and infrastructure construction activities due to the import and export of construction materials. The City of Dublin may require the developer to obtain an Encroachment Permit for access through the City. In association with the Encroachment Permit, the developer may be required to provide surety bonds to insure against pavement damaged as a result of the project construction traffic on City roads. 3

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Community Development
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Economic Development
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Human Resources
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3. The City of Dublin and Contra Costa County are coordinating on a project to improve traffic safety on Tassajara Road between Windermere Parkway in the County and Fallon Road in the City. Preliminary analyses suggest that to improve traffic safety along this segment, the roadway needs to be realigned near the City and County boundary. Because the Tassajara Parks project will potentially increase traffic along Tassajara Road, a roadway safety review and analysis along this segment shall be conducted as part of the overall project traffic analysis. The City of Dublin would like to participate in the development of the scope of work for this study. 4

If you have any questions regarding the above comments, please do not hesitate to contact me at 925-833-6630, or via email at Obaid.khan@dublin.ca.gov.

Sincerely,

Obaid Khan, P.E.
Transportation and Operations Manager

Attachment: City of Dublin comment letter dated March 26, 2013

cc: Gary Huisingh, Public Works Director
Andrew Russell, City Engineer
Laurie Sucgang, Senior Civil Engineer

CITY OF DUBLIN

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SENT VIA US MAIL AND E-MAIL (john.oborne@dcd.cccounty.us)

March 26, 2013

John Oborne, Project Planner
Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553-4601

Subject: Comments on Tassajara Parks Project

Dear Mr. Oborne:

Thank you for giving us the opportunity to review and provide comment on the Tassajara Parks Project (formerly New Farm). The project site encompasses 771 acres of land in two locations on Camino Tassajara; a 155-acre "Northern" site and a 616-acre "Southern" site. The Northern site proposal includes construction of 158 single-family dwelling units on 30 acres directly east of Tassajara Hills Elementary School. The Northern site also includes a 2.4-acre neighborhood park, a 1.1-acre parking lot for Tassajara Hills Elementary School, a 2.4-acre detention basin parcel, a 1-acre trail staging area, a 0.1-acre trail head, and various other trail improvements. The Southern site proposal includes a 5-acre training facility for the San Ramon Valley Fire Protection District. The remaining project acreage is planned for park, recreation, and open space uses.

The following are comments based upon review of your Agency Comment Request dated February, 26, 2013.

1. The project will potentially increase traffic along Tassajara Road, Fallon Road, and Dublin Boulevard in the City of Dublin. Prior to initiation of a traffic analysis for the project, please coordinate with the City of Dublin regarding locations of traffic counts and the list of intersections that should be included in the analysis, as well as the trip distribution and the land use assumptions that should be incorporated into the travel demand model.

2. The project will potentially generate significant heavy construction traffic on Tassajara Road, Fallon Road and Dublin Boulevard. Such heavy construction traffic is expected during site grading and infrastructure construction activities due to the import and export of construction materials. The City of Dublin may require the developer to obtain an Encroachment Permit for access through the City. In association with the Encroachment Permit, the developer may be required to provide surety bonds to insure against pavement damaged as a result of the project construction traffic on City roads.

5

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3. The City of Dublin and Contra Costa County are coordinating on a project to improve traffic safety on Tassajara Road between Windermere Parkway in the County and Fallon Road in the City. Preliminary analyses suggest that to improve traffic safety along this segment, the roadway needs to be realigned near the City and County boundary. Because the Tassajara Parks project will potentially increase traffic along Tassajara Road, a roadway safety review and analysis along this segment shall be conducted as part of the overall project traffic analysis. The City of Dublin would like to participate in the development of the scope of work for this study.

If you have any questions in regards to the above comments, please do not hesitate to contact me at 925-833-6630 or via email at andrew.russell@dublin.ca.gov.

5
CONT

Sincerely,

Andrew Russell, P.E.
City Engineer

cc: Gary Huisingh, Public Works Director
Obaid Khan, Sr. Civil Engineer
Jayson Imai, Sr. Civil Engineer

City of Dublin (DUBLIN) November 29, 2016, and March 26, 2015

Response to DUBLIN-1
The comment is noted. Responses have been provided to all comments.

Response to DUBLIN-2
The City of Dublin was contacted in March 2015, prior to the initiation of traffic counts and analysis, for input regarding the traffic study. This is noted on page 3.12-9 of the RDEIR. Furthermore, evidence of such contact is provided in the appendix of the Project traffic study that is included in Appendix I of the DEIR and RDEIR. In addition to this contact made with the City of Dublin, the Project's traffic consultant also reached out to other nearby jurisdictions (Danville and San Ramon) to discuss the appropriate scope and methodology to be used in the traffic analysis.

Response to DUBLIN-3
Based on available information and reasonable assumptions at the time environmental review was commenced, the RDEIR assumed that buildout would be complete by 2020 (e.g., Section 2.5.7, page 2-40). While the ultimate phasing of home development would depend on a variety of market and other factors, based on these assumptions, approximately 42 homes would be built per year. Soil would be balanced on-site, and, therefore, no import/export of soil is expected. It is anticipated that the construction activity required to construct approximately 42 homes per year, with no soil transport, would result in a lower peak-hour trip generation than the Project once it operational, as explained in the analysis presented in the RDEIR. Therefore, the Level of Service (LOS) at the study intersections during construction traffic conditions would be better than the LOS under Project buildout conditions (operations).

Response to DUBLIN-4
This is an existing condition and does not raise any specific Project-related environmental issues. However, for informational purposes, please note that since the City and County are already coordinating on this improvement project, an additional safety study conducted in connection with the Project is not warranted or required under CEQA. As explained in the RDEIR (see, e.g., p. 3.12-82), the Project does not propose any design features or incompatible uses that would exacerbate this condition. However, the Project would add an incremental amount of traffic to this existing deficient condition, and may therefore be asked to contribute incrementally towards the cost of any identified improvements. The County will include a condition of approval to this effect. The nexus would be determined by proportioning Cumulative Plus Project traffic volumes on Camino Tassajara. It is assumed that to the extent the applicable public agencies seek to impose a fee to offset costs associated with this regional improvement project, the percentage of trips attributed to each development (including the Project) would determine the percentage of the roadway realignment project to be paid.

Response to DUBLIN-5
The City of Dublin was contacted in March 2015, prior to the initiation of traffic counts and analysis, for input regarding the traffic study. This is noted on page 3.12-9 of the RDEIR. Furthermore, evidence of such contact is provided in the appendix of the Project traffic study that is included in Appendix I of the DEIR and RDEIR

The applicant would be required to coordinate with the City of Dublin to the extent an Encroachment Permit from the City of Dublin would be necessary. Note that the Project consists of the construction of only 125 single-family homes, far fewer than recent and ongoing residential construction located in the nearby Alamo Creek development and the Groves and Terraces residential developments located within Dublin on Dublin Boulevard.

Please refer to the response for DUBLIN-4 related to the need to perform a traffic safety analysis.

Dublin San Ramon Services District
Water, wastewater, recycled water

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November 11, 2016

Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553

SUBJECT: **GP07-0009, RZ090-3212, SD10-9280, DP10-3008:**
Tassajara Parks Project
Notice of Availability and Notice of Public Hearing for the *Recirculated* Draft Environmental Impact Report for the Tassajara Parks Project

DSRSD has received your Notice of Availability and Notice of Public Hearing for the *Recirculated* Draft Environmental Impact Report dated September 29, 2016 on the Proposed Tassajara Parks Project.

1

The location of this project is outside the DSRSD service area and sphere of influence. However, a portion of the "southern site" touches a section of DSRSD's border near the northeast corner of DSRSD's service area. DSRSD has no plans to provide potable water, recycled water or wastewater services to this project.

Thank you for the opportunity to comment. Should you have any questions concerning the above, please contact me at (925) 875-2253.

Sincerely,

STANLEY KOLODZIE
Associate Engineer

SK/ST

cc: Rhodora Biagtan
Bonifacio Duenas
Ryan Pendergraft

H:\ENGDEPT\CEQA\DSRSD Response to CEQA Documents\Contra Costa Cty - Dept of Conservation and Devel\Tassajara Parks SD10-9280, GP07-0009, RZ09-3212, DP10-3008 - NO Avail of RECIRC DEIR 9-29-16.docx

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Dublin San Ramon Services District (DSRSD) November 11, 2016

Response to DSRSD-1

The comment is noted. As explained in RDEIR, Section 2 (Project Description), Section 3.13 (Utilities and Service Systems), and the Water Supply Evaluation (Appendix J to the RDEIR), the Project does not propose to receive any service from DSRSD and no further response is necessary. For informational purposes, the following is noted.

As described in Section 2 of the RDEIR, the applicant proposes to convey the 727-acre Dedication Area to the East Bay Regional Park District (EBRPD) by fee simple transfer, subject to a conservation easement on a portion of the Southern Preservation Area that would also need to be acceptable to the applicable resource agencies. The fee simple conveyance to EBRPD would ensure that the Dedication Area is protected and preserved in perpetuity for nonurban uses only. As part of that conveyance, no plans to extend any utility service is being proposed. Additionally, as noted in Section 2.2.3 of the RDEIR, an approximately 7-acre portion of the Southern Site has been contingently offered for dedication to San Ramon Valley Fire Protection District (SRVFPD) for potential future public use in a manner consistent with the ULL and proposed zoning. No development of this portion of the Southern Site is proposed as part of the Project, and the SRVFPD has not formally indicated its intention to accept the offer. Therefore, for purposes of this EIR, it is speculative to assume any development on this site; furthermore, no provision for any future extension for utilities has been provided under this arrangement with the Fire District. If the Fire District does not accept the offer of dedication, this 7-acre portion of the Southern Site would also be conveyed to EBRPD (along with the Dedication Area) in fee simple.

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EAST BAY
MUNICIPAL UTILITY DISTRICT

November 21, 2016

John Oborne, Senior Planner
Contra Costa County Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Re: Notice of Availability for the Recirculated Draft Environmental Impact Report for the Tassajara Parks Project, Unincorporated Contra Costa County

Dear Mr. Oborne:

East Bay Municipal Utility District (EBMUD or District) appreciates the opportunity to comment on the Recirculated Draft Environmental Impact Report (DEIR) and revised Water Supply Evaluation (WSE) dated September 2016, attached to the Recirculated DEIR for the proposed Tassajara Parks Project (Project) located in the unincorporated area of Contra Costa County (County).

The Project is located outside EBMUD's Ultimate Service Boundary (USB) and outside the County's Urban Limit Line (ULL), and on May 20, 2016, the County submitted an application to the Contra Costa Local Agency Formation Commission (LAFCO) for Sphere of Influence (SOI) Amendments and Annexation to EBMUD. The Recirculated DEIR assumes that EBMUD will play a role in implementing the Project's water strategy and identifies EBMUD as the water provider for the Project. EBMUD previously provided written comments to the County on earlier versions of the Project in March 2010, May 2011, March 2013, March 2014, June 2014, February 2015, and July 2016. As stated in those letters and per EBMUD Policies 3.01, 3.05, and 3.08 (copies attached), EBMUD opposes annexation of properties, including the Project, that are located outside of EBMUD's USB and the extension of service by EBMUD to those properties. EBMUD's position has not changed. 1

EBMUD has the following comments specific to annexation, water supply, growth-inducing impacts, water demand, and water service as discussed in the Recirculated DEIR and revised WSE.

ANNEXATION AND EBMUD POLICIES

The EBMUD Board of Directors has established several policies to guide District action on projects that require annexation of new territory to EBMUD's service area. Consistent with EBMUD Policies 3.01, 3.05, and 3.08 (Policies or Annexation Policies), the District opposes annexation to its service area of properties outside of EBMUD's USB and the extension of service by EBMUD to those properties. Although the Recirculated DEIR 2

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addresses the applicability of these Policies to the Project, the Recirculated DEIR should incorporate EBMUD's following comments in response to the applicability of these Policies: 2 CONT

- **Policy 3.01**: The Recirculated DEIR incorrectly states that the Project is consistent with Policy 3.01 (Recirculated DEIR, page 3.9-37). Policy 3.01 places several important conditions on annexations into EBMUD's service area. First and foremost, the Policy sets a framework for consideration of annexations that is based on a proposed annexation's location in relation to the USB. Simply put, except in certain narrow circumstances, EBMUD will oppose annexations unless they are located entirely within the USB or otherwise comply with Policy 3.08 (see below). Here, the Project is not consistent with Policy 3.01, because the Project's boundaries are entirely outside of the USB, and the two narrow exceptions to that general Policy – that the proposed annexation either be (1) a small boundary adjustment where the property in question is a small part of a larger development located primarily within the USB and meets several other requirements, or (2) necessary to mitigate health risks – are inapplicable. Nor does the Project comply with Policy 3.08, which requires EBMUD to oppose annexations of 200 dwelling units or less that are located outside of the ULL. Accordingly, consistent with Policy 3.01, EBMUD will oppose this annexation. 3

- **Policy 3.05**: Policy 3.05 states that the USB defines the territory within which EBMUD has planned to provide water service for both existing and future customers and that EBMUD will not extend water service outside the USB if doing so would result in a reduction in the quantity of water available to District customers to satisfy existing or projected levels of demand, a reduction in water quality for the District's customers, or an increase in the cost of service for District customers. Because the Project would lead to a reduction in the quantity of water available to existing EBMUD customers, as EBMUD has not planned for serving properties located outside the USB, EBMUD's existing water supplies are insufficient to serve the Project. Because the water supply analysis described in the Recirculated DEIR and revised WSE is incomplete, the Recirculated DEIR does not adequately identify a sufficient water supply for the Project and, therefore, the Project has not demonstrated that it will not adversely affect District customers under the considerations set forth in Policy 3.05. 4 5

- **Policy 3.08**: Policy 3.08 sets forth events triggering an advisory election on proposed annexations located outside the ULL. The Recirculated DEIR incorrectly states in Section 3.9 (on page 3.9-40) that "the Project is covered by and consistent with Policy 3.01, so Policy 3.08 does not require EBMUD to oppose the Project or call an advisory election." As stated above, the Project is not consistent with Policy 3.01, and given its size and location outside the ULL, under Policy 3.01 and Policy 3.08, EBMUD will oppose the proposed annexation, and the District's Board of Directors will determine, at a regularly scheduled public meeting, whether to call an advisory election on the question of whether such territory should be annexed to EBMUD. 6

Although EBMUD's July 13, 2016 DEIR comment letter (copy attached) explained the applicability of these Policies to the Project and the Project's inconsistency with these Policies, the Recirculated DEIR includes the same incorrect statements regarding the Polices as were found in the DEIR. As the agency responsible for promulgating and enforcing these Policies, EBMUD finds it is troubling that the County chose not to make edits to the Recirculated DEIR reflecting inconsistencies noted in EBMUD's July 13, 2016 DEIR comments. These Policies are designed to help the District ensure its continued ability to meet its obligation to provide reliable water service to existing and planned future uses within its service area, and their implementation protects against potentially significant environmental impacts that could result from the expansion of additional water infrastructure or procurement of additional water supplies necessary to serve land development in areas the District has not planned to provide water service. As such, the District's interpretation of the Policies deserves deference and should be considered seriously by the County, not dismissed outright. 7

As drafted, the Recirculated DEIR (page 3.9-40) finds the Project consistent with all of these Policies and states that implementation of Mitigation Measure USS-1 "would ensure that all EBMUD annexation policies are adhered to and would reduce impacts to a less-than-significant level." To the contrary, obtaining approvals related to water service would not ensure consistency with any of EBMUD's Annexation Policies. Because the Project is, in fact, inconsistent with these Policies, the Recirculated DEIR should have identified a significant and unavoidable environmental impact. Decision makers such as the County Board of Supervisors and LAFCO should be presented with accurate information on this issue in the EIR for the Project, including the District's interpretation of its own Policies. 8

In addition, EBMUD notes that in Appendix L of the Recirculated DEIR, a draft Memorandum of Understanding is presented for the County, Town of Danville, City of San Ramon, and the East Bay Regional Park District that proposes to limit extensions of utility services, or annexations, or modifications of SOI into the "Tassajara Valley Agricultural Enhancement Area" unless the extension, annexation, or SOI serves non-urban uses. EBMUD Policy 3.01 requires EBMUD to express opposition to all proposed annexations outside of the USB, which includes both urban and non-urban uses. 9

WATER SUPPLY IMPACTS

As the Project is located outside of EBMUD's USB, EBMUD has not planned to, nor does it have sufficient water supplies to, serve the Project. In addition, the water demand for the Project is not included in any of EBMUD's water supply planning documents, including its Urban Water Management Plan (UWMP). While EBMUD may have sufficient water supplies from the Mokelumne River to serve existing and planned growth during normal runoff and single dry years, Mokelumne River and local watershed supply is not sufficient to meet year 2040 customer demands during multi-year droughts without achieving potentially significant water use reductions and obtaining supplemental supplies. EBMUD's UWMP 2015 is available on EBMUD's website at http://www.ebmud.com/ 10

water-and-drought/about-your-water/water-supply/urban-water-management-plan/, and an excerpt is attached. A copy of the UWMP 2015 is also included on the enclosed CD. 10

As stated on page 3.13-26 of the Recirculated DEIR, under Water Demands during Single and Multiple Dry-Year Conditions, the revised WSE assumes the Project would achieve half of the conservation goal set by the water utility in multiple dry years. While this assumption was used to provide a more conservative assessment of water supply sufficiency, please understand that if the Project were to be annexed into EBMUD's USB, it would be required to adhere to all EBMUD drought restrictions as outlined in the UWMP 2015, including water use restrictions established pursuant to the District's Drought Management Program (DMP) Guidelines. Under the current DMP Guidelines, water use restrictions may be determined based upon either projected end-of-September Total System Storage (TSS) or water use restriction mandates from the State Water Resources Control Board (SWRCB). When state-mandated water use restrictions exceed the reductions that would otherwise be called for based upon the end-of-September TSS, EBMUD's water use reduction requirements may be guided by the applicable state mandates. Under either scenario, while EBMUD has a goal of maintaining mandatory water use reductions at or below 15 percent, if the drought is severe, mandatory water use reductions could exceed 15 percent. For example, under the most recent drought, EBMUD declared a Stage 4 Drought and a mandatory District-wide conservation goal of 20 percent water use reduction and adopted mandatory water use prohibition and restriction regulations. This 20 percent conservation goal met the requirements of both state drought emergency orders and the SWRCB extension of its emergency water conservation regulations. 11

GROWTH-INDUCING IMPACTS

As explained further below, the Recirculated DEIR does not adequately address the water supply source for the Project and must include a detailed discussion of the water supply source, including water treatment and transmission facilities, needed to serve the Project. 12

There should also be an analysis of growth-inducing effects the Project may have in the greater Camino Tassajara Valley, including, for example, residences on Finley Road and the implications and impacts of obtaining water sources to serve the potential growth. Further discussion concerning the proposed water source for the Project is provided below. 13

WATER DEMAND PROJECTIONS

As with the water demand estimates included in the DEIR and original WSE, EBMUD reviewed the water demand estimates provided in the Recirculated DEIR, Section 3.13, and revised WSE. In its July 13, 2016 DEIR comment letter, the District noted substantial disagreement between the Project demand estimates prepared by the District and the estimates prepared by the Project sponsor. In the Recirculated DEIR, rather than deferring to EBMUD's expertise and knowledge gained through over 90 years of providing water service in the East Bay, the Recirculated DEIR continued to use the Project sponsor's demand estimate, which is almost 50 percent lower than the EBMUD's estimate. 14

The Project's residential average annual demand was estimated by the Project sponsor to be 40 acre-feet (ac-ft) per year or 35,710 gallons per day (gpd) for 125 single-family residential homes and up to 48 ac-ft or 42,852 gpd for the 125 residential units, a trailhead restroom, and streetscaping including non-revenue water and increased irrigation during a dry year. The revised WSE assumes that the Project will achieve all of the water conservation goals set by the County and the State of California. The revised WSE further reduces the Project water demand by assuming that there will be 1,500 square feet (sf) of hardscape per lot, which appears high for 5,000-sf and 7,500-sf lots. The result is the revised WSE reports Project demand between approximately 230 and 340 gpd/unit. 15

To justify reliance on this estimate, the last paragraph on page 2-7 of the revised WSE references an e-mail communication from me stating that 2013 water use for the Alamo Creek residential development was about 315 gallons per day. The Alamo Creek development consists of roughly 1,000 homes located southwest of the Project site and was subject to much controversy during its approval process. Ultimately, Alamo Creek was annexed to the District's service area, but the provision of water service to the development was conditioned on the implementation of rigorous onsite water conservation measures that are required to be included in the covenants, conditions and restrictions (CC&Rs) for homes within the development. Although my email communication regarding 2013 water use in Alamo Creek noted this important fact, stating that "the (Alamo Creek) development is also required to implement onsite conservation measures that are enforced with CC&Rs," the revised WSE failed to mention it. The absence of an enforceability mechanism for implementation of onsite conservation measures relied upon to justify the Project sponsor's water use estimate, in combination with the large disparity between that estimate and historic demand levels in the region, undercuts the validity of the estimate. 16

EBMUD calculates average annual day demands for new residential customers based on average historical metered consumption prior to EBMUD's recent droughts. Based on EBMUD's historical water consumption data, EBMUD's standard estimate for single-family residential homes in the surrounding area, which includes the cities of San Ramon, Danville and Alamo, is about 580 gpd. Estimated average annual demands for new customers are calculated for each of EBMUD's three major System Capacity Charge (SCC) regions that include 1) lower elevations west of hills, 2) upper elevations west of hills, and 3) east of hills. The three different SCC regions reflect areas with similar climates, locations, and infrastructure needs. The SCC was established as a means of assessing new water customers an appropriate share of the costs of water distribution capital improvements and future water supply improvements within the SCC regions of EBMUD. 17

The SCC region per-service, single-family average annual demand estimates are based on single-family 2001-2006 historical average annual metered consumption, which represents the last period of time when EBMUD's demands were not affected by voluntary or mandatory rationing or a rebound from rationing. To accurately reflect water consumption

for typical new home construction trends, the historical average reflects only 5/8-inch single-family services which were added to the system after 1990.

For 125 homes, a trailhead restroom, and one acre of streetscaping, EBMUD anticipates the average annual water demand would be 75,500 gpd, almost twice the demand estimated in the Recirculated DEIR. Not only is this estimate consistent with recent usage trends in the applicable SCC region, it is also consistent with the average annual demand within the Scenic Pressure Zone (PZ). The Scenic PZ supplies recently constructed homes and continuing residential development along Camino Tassajara adjacent to the proposed Project and would also supply the Project were it annexed to EBMUD. As the table below shows, even as new homes were added to the Scenic PZ following the 2010 promulgation of the stricter water conservation requirements touted by the Project sponsor as ensuring a very low water demand for the Project of 315 gpd per unit, demands have actually increased.

Scenic PZ Demands

Year	Demand (GPD/Unit)	No. of Units Added
2003	607	22
2004	641	39
2005	598	60
2006	581	226
2007	584	380
2008	524	70
2009	474	39
2010	450	43
2011	456	37
2012	505	60
2013	545	76

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The District experienced a drought from 2007 to 2010. In 2007, the District implemented voluntary rationing followed by 15 percent mandatory rationing in 2008. Customers in the Scenic PZ achieved about a 10 percent reduction in 2008 from 2007. In 2009, the mandatory reduction was lifted, and a voluntary rationing continued until 2010. In addition to the 2007-2010 drought, the Great Recession occurred from December 2007 through June 2009 (with continued lingering effects on the housing market past 2009 through 2012). Accounting for the first drought from 2007 through 2010 in addition to the Great Recession, water demand continued to drop through 2010 (people continuing their conservation habits through the mandatory rationing), and then water demands started to increase in 2011 through 2013. The reaction of the Scenic PZ demands to the 2007-2010 drought and the Great Recession is consistent with EBMUD system-wide demands as documented in EBMUD's UWMP 2015. See UWMP 2015, pages 48-52.

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As a water supplier, EBMUD continually works to reduce residential water demand through the implementation of conservation programs. While water use reductions are

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often achieved, the District's 90+ years of experience has taught the District that we ensure our ability to provide reliable water service by planning for conservative, yet reasonably likely scenarios, and not merely best-case scenarios, such as the Project sponsor's demand estimate, that are not supported by data validating their accuracy in the real world over time. Failure to plan, based on reasonably likely scenarios, leads to underestimation of environmental impacts. As a CEQA-responsible agency, given EBMUD's expertise as a water supplier and ample data summarized above confirming that the Project sponsor's demand estimate appears to be optimistically low, EBMUD does not believe it could rely on this EIR to make discretionary approvals that could be required to serve the Project. It is inappropriate to base environmental impact analysis on a water conservation goal when historical data for the region indicates that the real water usage will be nearly twice the demand estimate used in the EIR's analysis. Because the Project demand estimate is the jumping-off point for all environmental analysis regarding water supply impacts, the Recirculated DEIR for the Project must be recirculated with updated impact analysis which reflects the District's demand estimate for the Project. 19 CONT 20 21

In addition to the above comments regarding the demand estimate for the Project, EBMUD also notes that it is unclear in the Recirculated DEIR and revised WSE whether the non-urban uses on the Northern Site, such as the proposed staging areas, future trail alignment, detention basin, pump station and related grading are part of the proposed property to be annexed. If the Project is annexed into EBMUD's USB, all non-urban uses that require water would also need to be annexed. 22

WATER SERVICE

The water supply alternatives described in the Recirculated DEIR will impact EBMUD's water distribution system. The Project is located north of Camino Tassajara, adjacent to EBMUD's Scenic PZ, which serves an elevation range between 650 and 850 feet. If the Project is annexed into EBMUD's USB, the Project would be served by the Scenic PZ.

In its comments on the DEIR, EBMUD noted that the Project would exacerbate a pre-existing future deficiency in storage and pumping in the Scenic PZ and that, as a result, the DEIR should have analyzed impacts associated with infrastructure improvements that would be necessary to address the increased deficiency. Rather than deferring to EBMUD's expertise, the Recirculated DEIR omits any analysis of the issue and assumes a lower peaking factor for determining the Project's maximum day demand than that used by EBMUD for water infrastructure planning. Without citation to any authority justifying deviation from EBMUD's established peaking factor for the Scenic PZ, the revised WSE states that there is "significantly more than enough (capacity) to meet demands from existing customers plus new demand from the Proposed Project." (Revised WSE, page 2-12.) 23

Per EBMUD Engineering Standard Practices, water distribution facilities are sized to meet the future maximum day demand that is planned within the USB, not the average annual demand, as it is not enough to size facilities to be able to supply water based on current 24

demands or only on an average day (see attached memorandum dated November 14, 2016 re Tassajara Parks Project Water Demands and Scenic Pressure Zone Capacity). EBMUD calculates maximum day demands for sizing new distribution system infrastructure. Maximum day demands for each pressure zone are calculated by multiplying average annual day estimated demand by a statistically based 20-year return period peak day peaking factor (also known as the maximum day peaking factor). A conservative peaking factor is necessary, because the consequences of using underestimated maximum day demands for facility sizing could include undersized water treatment plants, reservoirs, pumping plants, control valves, main transmission pipelines, and water mains that do not provide acceptable operational reliability and level of service during the annual warm weather periods and peak days.

EBMUD's maximum day peaking factors are calculated from annual peaking factors for the period of 1995 to 2006, which represents the last period of time when EBMUD's demands were not affected by voluntary or mandatory rationing or a rebound from rationing. Historical annual peaking factors are the ratio of annual maximum day water demand (from operational flows into a pressure zone) to average annual demand (from metered consumption data, adjusted to include unmetered water). 24 CONT

To determine the maximum day peaking factor, annual factors are fit to a Log-Pearson Type III probability distribution, and the 95th percentile (20-year return period) value was selected as the conservative maximum day peaking factor. Log-Pearson Type III was selected for its ability to account for statistically significant data skew which is typical of hydrologic, seasonal, and weather-driven events. The maximum day factor between the average annual day demand and the maximum day demand is 2.5 for the Scenic PZ; therefore, the maximum day demand for the Project is estimated to be about 189,000 gpd.

In light of EBMUD's empirical and well-tested approach to infrastructure planning and its status as an expert regarding the challenges of providing water service within its own service area, it was inappropriate for the Recirculated DEIR to ignore EBMUD's comments regarding potential future infrastructure inadequacies. As stated in EBMUD'S comments on the DEIR, based on projected future demands for the Scenic PZ, there is a deficiency in pumping and storage capacity in the Scenic PZ; adding additional demand from the Project would further exacerbate the deficiency. The Recirculated DEIR should have included an analysis and identified all the capacity improvements that would be required to serve the Project, beyond just extending a distribution pipeline should the Project be annexed, to ensure that any environmental impacts of those capacity improvements were considered. It failed to do so and, therefore, failed to ensure that all potential water-supply-related impacts of the Project were adequately considered in the County's CEQA analysis. 25

If the Project is annexed to EBMUD's service territory, the Project sponsor would be required to enter into an Advanced Payment Agreement (APA), Preliminary Work Deposit, per Section 3B of the Regulations Governing Water Service to Customers of EBMUD, at the Project sponsor's expense, to complete the planning for any new major 26

facilities (reservoir, pumping plant, and pipelines) that may be required to serve the Project. Subsequent design and construction APAs would be required and fully funded by the Project sponsor. 26 CONT

ANALYSIS OF WATER SUPPLY

Section 3.13.2 of the Recirculated DEIR and the revised WSE propose two water supply sources to meet or offset estimated Project demands: water to be supplied by the Calaveras Public Utility District (CPUD) or existing EBMUD potable water supplies, augmented through the implementation of water conservation measures. 27

CPUD Water Supply

In addition to the comments regarding the proposed CPUD water supply alternative provided in EBMUD's July 13, 2016 comment letter on the DEIR for the Project, EBMUD provides the following further comments: 28

Temporary Availability of CPUD Water – As stated on page 3-12 of the revised WSE, a Term Sheet has been executed with CPUD (Exhibit 1 of the revised WSE) that contains principles and terms for a proposed, future long-term water lease agreement between the proposed Project's proponent and CPUD. The water lease agreement does not appear to exist yet. Rather, the Term Sheet sets forth the principles and terms that such a future water lease agreement would contain if and when it is drafted. Under the Term Sheet, the initial term of the proposed water lease agreement would be for 25 years, with a right to renew the lease for a second 25-year term and an ability to further extend the lease, but only upon mutual agreement. There is no guarantee of a future renewal agreement and, therefore, no guarantee that the supply will be available long term. The Project is permanent in that it proposes building homes that will be resided in for the long term. As noted above, the CPUD water source listed as a potential supply to these permanent homes is itself not permanent but is, instead, of limited duration. The Recirculated DEIR, therefore, needs to address the water supply needs for the proposed Project beyond the expiration of the proposed water lease agreement. If the Project is annexed to the District, EBMUD's obligation to provide service will exist well beyond the maximum "guaranteed" 50-year term of the proposed agreement with CPUD. As stated repeatedly by the District, it has not planned for providing water service to the Project, because it is outside the District's USB, and the District does not have adequate supplies to serve the Project whether the need for those supplies begins now or 50 years from now. 29

Environmental Impacts to Schaad Reservoir – In addition to several other comments regarding inadequate analysis of Schaad Reservoir impacts, in its DEIR comment letter, the District noted that a refill agreement with EBMUD would be necessary and questioned the validity of the original WSE's analysis of Schaad Reservoir impacts, because the modeling did not factor in the effects of a refill agreement. The revised WSE states that refill criteria were included in the modeling analysis but provides no information regarding the refill criteria that were apparently considered. Without additional information regarding 30

those criteria, there is no way to determine whether the WSE's analysis of Schaad Reservoir impacts accurately captures the potential impacts of the Project. The Recirculated DEIR must be recirculated with additional information regarding the assumptions embedded in the refill criteria so that EBMUD and the public may properly assess those impacts. 30

In addition to its failure to identify the refill criteria used to model water levels in Schaad Reservoir, the Recirculated DEIR also fails completely to analyze potential biological impacts associated with the increased reductions in Schaad Reservoir water levels that would occur. For example, Figure 3-4 in the revised WSE shows that water elevations in Schaad Reservoir would be substantially reduced under Project conditions, yet there is no consideration in the WSE or Recirculated DEIR of the potential for those reductions in storage in Schaad Reservoir to result in biological impacts, such as the potential for increased water temperatures to affect fishery resources. There may be other potential biological or recreational impacts associated with these increased reductions in the water level in Schaad Reservoir but, without any analysis, the EIR reader cannot determine what those impacts might be; this issue must be addressed in a recirculated EIR. 31

In addition, given the potential for the Project to include reoperation of Schaad Reservoir to deliver Mokelumne River water for diversion at EBMUD's upcountry facilities, the Notices of Availability for the DEIR and Recirculated DEIR should have been published in at least one newspaper of general circulation in the area encompassing Schaad Reservoir and should have been provided to the Calaveras County and Amador County Clerks' offices for posting (see CEQA Guidelines § 15087). Did the County follow these procedural requirements? Given the work it has done through the years to build and maintain effective relationships with its upcountry partners, the District is very concerned that a project which could affect upcountry resources may ultimately be approved by the County without having given upcountry agencies and interest groups the opportunity to comment. 32

Alternative Modes of CPUD Water Delivery

The revised WSE lists two alternatives to annexation for the delivery of CPUD water to the Project: an extraterritorial service agreement pursuant to Government Code Section 56133, or wheeling. As an initial matter, an extraterritorial service agreement is not a legally viable alternative. Pursuant to Government Code Section 56133, exterritorial service agreements are only available either (1) in anticipation of a future annexation of land within an agency's sphere of influence, or (2) to respond to an existing or impending threat to public health and safety. See Government Code § 56133 and Contra Costa LAFCO Procedure 3.15, Provision of Services by Contract (Out of Agency Service), copy attached. In this case, neither of those scenarios applies, because there is no existing or impending threat to public health and safety, and the District is opposed to annexation of the Project, which is also located outside the District's sphere of influence. 33

Under the wheeling alternative, the Project would not be annexed into EBMUD; instead, another water retailer would be created to provide retail water service to the Project (revised WSE, Section 3.1). Under this alternative, EBMUD would be required to provide unused capacity in its conveyance facilities to wheel CPUD water pursuant to the Project area (see Water Code § 1810, et seq.). The wheeling alternative is not fully described, and it raises a number of issues that are not addressed in the Recirculated DEIR or revised WSE. 34

For example, under the Water Code's wheeling statutes, the District is only required to provide its unused conveyance facility capacity and is not required to store water for any longer than is necessary to convey the water to the Project. Despite this limitation, the Recirculated DEIR fails completely to consider important details associated with wheeling, including whether EBMUD would always have unused conveyance capacity available for wheeling CPUD water or how the Project would receive water in the event of emergency outages of any EBMUD facility necessary to convey wheeled water to the Project. 35

These are not merely hypothetical scenarios. In the summer of 2008, the District's Mokelumne Aqueducts were used at or near maximum capacity for several weeks to assist in meeting demand and to refill standby storage that had been depleted by drought (see Permit 10478 Time Extension Project DEIR, page 1-11).[1] Further, in 1997 the District shut down the Mokelumne Aqueducts 65 days because of a high-turbidity event (see Id.). This historical precedent undercuts two implied assumptions underlying the wheeling alternative: that unused conveyance capacity will always be available for the Project and that there is no possibility of emergency outages preventing EBMUD from conveying water from its upcountry facilities to the Project. 36

In addition, the revised WSE does not provide a basis for the three-af/year (yr) conveyance loss estimate and whether the three af/yr is meant to remain constant up to the 200-af/yr release from Schaad Reservoir. The Recirculated DEIR needs to clarify the conveyance loss estimate, evaluate the evaporation losses in Pardee Reservoir, identify locations for new river flow measuring stations to accurately estimate conveyance losses between Schaad Reservoir and Pardee Reservoir and evaluate the initial and recurring costs and responsibilities associated with the measuring stations. 37

Under the wheeling alternative, once the CPUD water is diverted at Pardee Reservoir and conveyed to the East Bay via EBMUD's Mokelumne Aqueducts, at a minimum, the water must still be (a) treated prior to entering EBMUD's local distribution system, and (b) conveyed through EBMUD's local distribution system to the turnout to the Project. However, because emergency shutdowns and the unavailability of conveyance capacity in EBMUD facilities are reasonably foreseeable to occur at times during the lifespan of the 38

[1] The Permit 10478 Time Extension Project DEIR is available at http://www.ebmud.com/index.php/download_file/force/663/1413/?1_permit10478_deir_sept2013_chapters.pdf, and an excerpt is attached. Section 1.3.4.1 of this DEIR reports periods during which EBMUD has diverted at or near the maximum rates of diversion allowed under its Permit 10478 water right. All rates reported in Section 1.3.4.1 are over and above the maximum rate of diversion of 200 MGD allowed under its License 11109 water right.

Project, on-site Project water storage and treatment facilities capable of storing and treating water in sufficient quantities to bridge potential gaps in the District's capacity to convey wheeled water would also be necessary so that water could continually be provided to the Project. The District will not offer up to the Project any storage capacity for periods any longer than required to convey wheeled water through EBMUD's conveyance facilities, and without on-site storage and treatment facilities, the Project is at risk of being unable to ensure the continual provision of adequate water service. The Recirculated DEIR and revised WSE do not address any of these operational and capacity issues. As a result, impact analysis regarding the construction and operation of these facilities must be completed, and the Recirculated DEIR recirculated again for public comment.

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Water Conservation

Section 3.13.2 of the Recirculated DEIR identifies off-site water conservation as the second water supply alternative to augment the availability of potable water to meet the Project's water demand. The Recirculated DEIR incorrectly proposes implementing this alternative by "accelerating currently planned conservation." This is not a viable option. "Accelerating" currently planned water conservation programs would not make water available for the Project, because those currently planned programs were already adopted by the District's Board of Directors through its 2012 approval of the Water Supply Management Program 2040 (WSMP 2040), including the WSMP 2040's "Level D" conservation programs.[2] Those Level D programs were adopted to ensure the District's ability to meet demand it has already planned for through the year 2040 and, as such, accelerating implementation of Level D conservation programs would not make new water available for the Project.

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To make new water available through conservation, the developer would be required to fund, through an agreement with the District, WSMP 2040 "Level E" conservation programs, but the Recirculated DEIR's discussion of funding new conservation programs is far too vague for off-site conservation to be considered a viable alternative at this point. The Recirculated DEIR (Section 3.13-8, Paragraph 3) states, "In consultation with EBMUD, this information would be used to develop the preferred conservation elements to be accelerated or expanded under . . . Level E beyond currently planned levels in order to achieve the 48-af/yr conservation savings needed to serve the Proposed Project." However, any future EBMUD Policy decision to pursue expanded conservation programs beyond currently planned levels would require evaluation of the remaining conservation potential the new programs could realistically achieve, considering many factors, including the following:

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- Is there a market for the programs? Are there enough interested customers to ensure successful implementation?

[2] The WSMP 2040 can be found here: http://www.ebmud.com/water-and-drought/about-your-water/water-supply/water-supply-management-program-2040/, and an excerpt is attached. A copy of the WSMP 2040 and its accompanying technical memorandum on water conservation programs are also included on the enclosed CD.

- Is the technology feasible, cost-effective, etc.?
- What are the estimated water savings for the program?
- How much would implementation cost?

The Recirculated DEIR did not consider any of those factors. While the District has developed conservation-based demand offsets in the past, the applied methodology and suite of conservation measures must be developed on a case-by-case basis. For these reasons, the off-site water conservation offset alternative identified in the Recirculated DEIR is not well-developed enough to be considered a feasible, viable water supply alternative. 40 CONT

In addition to the above comments regarding the off-site water conservation water supply alternative included in the Recirculated DEIR, EBMUD offers the following comments:

- The Recirculated DEIR does not fully address or list the state water efficiency code updates enacted since the 2010 CAL Green Code. Numerous additional requirements have been established under the Governor's Executive Order as well as the California Energy Commission (indoor plumbing requirements) and the Building Standards Commission (2015 California Model Water Efficient Landscape Ordinance) rulemaking. 41

- Tables 3.13-2 and 3.13-4 do not include any units or supporting calculations to demonstrate how demand estimates were derived, which limits the ability to confirm their validity. 42

- The five percent multiplier for increased outdoor water use for a single dry year appears low without any sensitivity analysis as to how dry and how large the departure from mean. Under very dry conditions without any declared water shortage or demand reduction measures, the use increase could exceed five percent for the Project. 43

In summary, as the discussion above demonstrates, the Recirculated DEIR has failed to identify likely sources of water for the Project. EBMUD has not planned for providing service to the Project and must preserve its available water supply to ensure its ability to meet its obligation to provide service within its existing service area. Further, the water supply alternatives identified in the Recirculated DEIR and revised WSE are so conceptual, inadequately analyzed and, in the case of the CPUD water, temporary in nature, that the County cannot reasonably conclude the Recirculated DEIR adequately addresses the Project's water supply impacts. For that reason, the Recirculated DEIR must be recirculated yet again with a more robust analysis of water supply impacts. 44 45

Outside Agency Approvals

Note that if all the above issues are resolved, such that real water is available for the Project consistent with the law, and if the Project is annexed into EBMUD's service area, significant effort and lead time will then be required to address potential impacts to 46

EBMUD's water rights and obtain approvals on the state and federal levels. Pursuant to a Long Term Renewal Contract (Contract) with the United States Bureau of Reclamation (USBR), EBMUD has the right to purchase water from the Central Valley Project (CVP) in dry years to supplement its core supply obtained from the Mokelumne River. The Contract requires EBMUD to apply to the USBR for inclusion of any annexed territory so that, if included, the annexed territory would also be authorized to receive CVP water during dry years. To add the Project to the CVP's place of use, approvals would be required by the USBR and other federal agencies including the Army Corps of Engineers. Mitigation measures may be required for the proposed development as a part of the federal approval process.

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CONT

In addition, if EBMUD were to serve the annexed area, the SWRCB would also need to approve a change petition to add the Project area to EBMUD's place of use under its water rights. This is a time-consuming process, better measured in years, not months, and EBMUD would require the Project proponents to enter a cost reimbursement agreement to recover its staff and permitting costs associated with these filings. Finally, the SWRCB should be added as a responsible agency to the Recirculated DEIR, as the SWRCB will need to rely upon it as environmental documentation for its consideration of a change petition related to the Project.[3]

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Please contact me at (510) 287-1365 if you have any questions concerning this response.

Sincerely,

David J. Rehnstrom
Manager of Water Distribution Planning

DJR:SHJ:dks
sb16_208

[3] Page 2-41 of the Recirculated DEIR lists a "State Water Quality Control Board" as one of the agencies required to grant approvals or coordinate with other agencies as part of Project implementation. It is not clear what was meant by this reference, i.e., was it meant to say "State Water Resources Control Board," or was it meant to refer to a water quality agency separate from the regional board, which is separately listed on the page? Regardless, the State Water Resources Control Board should be listed as a responsible agency.

Attachments:
- EBMUD Policy 3.01 – Annexations
- EBMUD Policy 3.05 – Considerations for Extension of Water Beyond the Ultimate Service Boundary
- EBMUD Policy 3.08 – Advisory Election for Annexations Outside the Contra Costa County Urban Limit Line
- July 13, 2016 Comment Letter on DEIR
- Excerpts, UWMP 2015
- Memorandum dated November 14, 2016 re: Tassajara Parks Project Water Demands and Scenic Pressure Zone Capacity
- Contra Costa LAFCO Procedure 3.15
- Excerpt, Permit 10478 Time Extension Project DEIR
- Excerpt, WSMP 2040
- CD including EBMUD's UWMP 2015 and WSMP 2040 and its accompanying technical memorandum on water conservation programs

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CONT

cc (without copy of CD):

David Bowlby
3000 F Danville Boulevard, #409
Alamo, CA 94507

Miller Starr Regalia
Attention: Nadia Costa
1331 North California Boulevard, 5th Floor
Walnut Creek, CA 94596

Miller Starr Regalia
Attention: Bryan Wenter
1331 North California Boulevard, 5th Floor
Walnut Creek, CA 94596

FT Land
c/o Anderson & Bonnifield
Attention: Mike Bonnifield
1320 Willow Pass Road
Concord, CA 94520

EBMUD

Policy 3.01

EFFECTIVE 24 NOV 15

SUPERSEDES 27 OCT 09

ANNEXATIONS

IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Consider annexing territory, when requested by owners of the property or public agencies having jurisdiction.

Conditions

Annexations are subject to the following conditions:

- The proposed annexation shall either be within EBMUD's Ultimate Service Boundary, or comply with Policy 3.08 – Advisory Elections for Annexations Outside the Contra Costa County Urban Limit Line.
- Generally, there should be an immediate need for water service on part or all of the territory being annexed.
- The territory proposed for annexation should include any parcels required to make a logical boundary.
- The annexation should facilitate the operation of the utility and be of advantage to the community.
- The annexation should be economically sound and water service technically feasible.
- Territory within the boundaries of the East Bay Watershed Master Plan, but lying outside the boundary of the Briones Hills Agricultural Preservation Area (BHAPA) must:
  - Have adequate facilities for removal of sewage from the watershed; and
  - Be under agreement or permanent deed restriction with EBMUD to protect the quality of source water under the influence of the territory.
- Territory shall be outside the boundary of the BHAPA as adopted by Contra Costa County and signatory cities, except where:
  - The territory is in EBMUD or other public agency ownership and will remain in public ownership; and
  - EBMUD obtains agreements or permanent deed restrictions from the public agency owner that provide for protection of the quality of source water under the influence of the territory.

  EBMUD policy shall be to express opposition to annexation of privately held parcels within the BHAPA boundary.
- If the proposed annexation extends beyond the Contractor Service Area of EBMUD's Central Valley Project (CVP) water supply contract, EBMUD shall request the United States Bureau of Reclamation (USBR) to include the proposed annexation in the Contractor Service Area in compliance with Article 35 of the CVP water supply contract. EBMUD shall also request the responsible Local Agency Formation Commission to condition water service to the annexed territory until receipt of USBR's formal approval of the inclusion.

Annexations

NUMBER	3.01
PAGE NO.:	2
EFFECTIVE DATE:	24 NOV 15

Territory Outside of Ultimate Service Boundary

EBMUD shall express opposition to all proposed annexations outside of the Ultimate Service Boundary unless:

a) The requested annexation is a small boundary adjustment found by EBMUD to be in its best interests based on the following conditions:

(1) The property and dwelling units are the smaller part of a larger development project located primarily within the Ultimate Service Boundary;

(2) The development project is desired and approved by the city or county land use planning agency with jurisdiction, and the land use planning and environmental documentation recognizes EBMUD as the logical provider of water service;

(3) Annexation of the property to EBMUD represents the most practical and feasible method of obtaining water service;

(4) The cumulative number of dwelling units outside the Ultimate Service Boundary added as a result of such small boundary adjustments shall not exceed 100 in any two-year period;

(5) The project proponent has agreed to cooperate with EBMUD in adding the territory to EBMUD's permitted place of use and has agreed to compensate EBMUD for costs incurred; and

(6) EBMUD Policy 3.05 – Considerations for Extension of Water Beyond the Ultimate Service Boundary, and Policy 9.03 – Water Supply Availability and Deficiency, are satisfied with regard to the effects of extension of water beyond the Ultimate Service Boundary; or

b) The requested annexation is to mitigate health risks, as established by the appropriate agency, associated with existing water supplies; the project proponent has agreed to cooperate with EBMUD in adding the territory to EBMUD's permitted place of use; and has agreed to compensate EBMUD for costs incurred.

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Authority

Resolution No. 20996, June 8, 1962
Amended by Board Motion No. 91-012, February 14, 1991
Amended by Resolution No. 33116-98, August 11, 1998
Amended by Resolution No. 33365-03, July 8, 2003
Amended by Resolution No. 33634-07, October 9, 2007
Amended by Resolution No. 33732-09, October 27, 2009
Amended by Resolution No. 34059-15, November 24, 2015

References

Policy 3.05 – Considerations for Extension of Water Beyond the Ultimate Service Boundary
Policy 3.08 – Advisory Election for Annexations Outside the Contra Costa County Urban Limit Line
Policy 9.03 – Water Supply Availability and Deficiency

EBMUD

Policy 3.05

EFFECTIVE 26 APR 16

SUPERSEDES 14 NOV 06

CONSIDERATIONS FOR EXTENSION OF WATER BEYOND THE ULTIMATE SERVICE BOUNDARY

IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT THAT:

The District will not extend water to areas outside the present Ultimate Service Boundary (USB) of the District, if such extension could result in:

1. A reduction in the quantity of water available to District customers to satisfy existing or projected levels of demand; or

2. A reduction in the quality of water available to District customers from the District's present water sources; or

3. An increase in costs of service for District customers.

The USB defines the territory within which the District has planned to provide water service. The phrase "District customers" as used in this policy shall mean (i) existing water service customers of the District and (ii) future customers, located within the present USB, but not now receiving water service.

This policy shall not apply to proposed annexations of property to the District's service area within the USB. All extensions and annexations shall continue to be evaluated on a case-by-case basis.

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CONT

Authority

Board Motion, adopted on March 8, 1983
Amended by Resolution No. 33236-01, February 13, 2001
Amended by Resolution No. 33564-06, November 14, 2006
Amended by Resolution No. 34080-16, April 26, 2016

EBMUD

Policy 3.08

EFFECTIVE 14 SEP 10

SUPERSEDES 14 OCT 08

ADVISORY ELECTION FOR ANNEXATIONS OUTSIDE THE CONTRA COSTA COUNTY URBAN LIMIT LINE

IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Call an advisory election if EBMUD is designated as the preferred water service provider by a local planning agency in its environmental documentation when the proposed development is located outside the Urban Limit Line adopted by Contra Costa County in 2000.

Purpose

The purpose of the election shall be to submit to the voters within the EBMUD service area the question of whether territory outside said Urban Limit Line should be annexed to EBMUD.

Events Triggering an Advisory Election

- EBMUD is identified by a local planning agency in its environmental documentation as the preferred provider to deliver potable water service to a residential development of 200 or more dwelling units located in territory beyond the Contra Costa County Urban Limit Line. In such cases, the matter shall be placed on the agenda for consideration by the Board of Directors at a regularly scheduled public meeting. If the Board of Directors determines not to oppose annexation of such territory to EBMUD, EBMUD shall call an advisory election on the question of whether such territory should be annexed to EBMUD. The advisory election shall occur prior to the time the Contra Costa County Local Agency Formation Commission is scheduled to consider annexation of the territory to EBMUD and, when possible, shall be consolidated with a general election.

- If a local agency designates EBMUD as the preferred provider for water service to a residential development in territory outside the Contra Costa County Urban Limit Line that is less than 200 dwelling units and is not covered by the provisions of Policy 3.01, then EBMUD shall oppose the annexation and the Board of Directors shall determine, at a regularly scheduled public meeting, whether to call an advisory election on the question of whether such territory should be annexed to EBMUD.

- This policy shall be applied consistent with and in furtherance of the provisions of Policy 3.01 – Annexations.

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CONT

Authority

Resolution No. 33347-03, January 28, 2003
Amended by Resolution No. 33564-06, November 14, 2006
Amended by Resolution No. 33687-08, October 14, 2008
Amended by Resolution No. 33780-10, September 14, 2010

References

Policy 3.01	Annexations
Policy 3.05	Considerations for Extension of Water Beyond the Ultimate Service Boundary
Policy 3.07	Responsibility to Serve Water Customers
Policy 7.03	Emergency Preparedness/Business Continuity
Policy 7.09	Workplace Safety and Health

EAST BAY
MUNICIPAL UTILITY DISTRICT

July 13, 2016

John Oborne, Senior Planner
Contra Costa County Department of Conservation & Development
30 Muir Road
Martinez, CA 94553

Re: Notice of Completion and Availability of Draft Environmental Impact Report for the Tassajara Parks Project, Unincorporated Contra Costa County

Dear Mr. Oborne:

East Bay Municipal Utility District (EBMUD or District) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the proposed Tassajara Parks Project (Project) located in the unincorporated area of Contra Costa County. The Project is located outside EBMUD's Ultimate Service Boundary (USB) and outside Contra Costa County's Urban Limit Line (ULL); Contra Costa County submitted an application to the Contra Costa Local Agency Formation Commission (LAFCO) for Sphere of Influence Amendments and Annexation to EBMUD on May 20, 2016. The Draft EIR assumes that EBMUD will play a role in implementing the Project's water strategy and identifies EBMUD as the water provider for the Project. EBMUD previously provided written comments to Contra Costa County on earlier versions of the Project in March 2010, May 2011, March 2013, March 2014, June 2014, and February 2015. As stated in those letters and per EBMUD Policies 3.01, 3.05, and 3.08 (copies attached), EBMUD's position has not changed. EBMUD will oppose annexation of properties located outside of EBMUD's USB and the extension of service by EBMUD to those properties. 49

EBMUD has the following comments specific to annexation, water supply, growth-inducing impacts, water demand, and water service as discussed in the Draft EIR.

ANNEXATION AND EBMUD POLICIES

The EBMUD Board of Directors has established several policies to guide District action on projects that require annexation of new territory to EBMUD's service area. Consistent with EBMUD Policies 3.01, 3.05, and 3.08, the District opposes annexation to its service area of properties outside of EBMUD's USB and the extension of service by EBMUD to those properties. Although the Draft EIR addresses the applicability of these policies to the Project, the Draft EIR should incorporate EBMUD's following comments in response to the applicability of these policies:

- **Policy 3.01**: The Draft EIR incorrectly states that the Project is consistent with Policy 3.01 (Draft EIR, page 3.9-37). Policy 3.01 places several important conditions on annexations into

EBMUD's service area. First and foremost, the policy sets a framework for consideration of annexations that is based on a proposed annexation's location in relation to the USB. Simply put, except in certain narrow circumstances, EBMUD will oppose annexations unless they are located entirely within the USB or otherwise comply with Policy 3.08 (see below). Here, the Project is not consistent with Policy 3.01, because the Project's boundaries are entirely outside of the USB, and the two narrow exceptions to that general policy—that the proposed annexation either be (1) a small boundary adjustment where the property in question is a small part of a larger development located primarily within the USB and meets several other requirements, or (2) necessary to mitigate health risks—are inapplicable. Nor does the Project comply with Policy 3.08, which requires EBMUD to oppose annexations of 200 dwelling units or less that are located outside of the ULL. Accordingly, consistent with Policy 3.01, EBMUD will oppose this annexation.

- **Policy 3.05**: Policy 3.05 states that the USB defines the territory within which EBMUD has planned to provide water service for both existing and future customers and that EBMUD will not extend water service outside the USB if doing so would result in a reduction in the quantity of water available to District customers to satisfy existing or projected levels of demand, a reduction in water quality for the District's customers, or an increase in the cost of service for District customers. Because the Project would lead to a reduction in the quantity of water available to existing EBMUD customers, as EBMUD has not planned for serving properties located outside the USB, EBMUD's existing water supplies are insufficient to serve the Project. Because the water supply analysis described in the Draft EIR and Water Supply Evaluation (WSE) is incomplete, the Draft EIR does not adequately identify a sufficient water supply for the Project and, therefore, the Project has not demonstrated that it will not adversely affect District customers under the considerations set forth in Policy 3.05.

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CONT

- **Policy 3.08**: Policy 3.08 sets forth events triggering an advisory election on proposed annexations located outside the ULL. The Draft EIR incorrectly states in Section 3.9 on page 3.9-38, that "the Project is covered by and consistent with Policy 3.01, so Policy 3.08 does not require EBMUD to oppose the Project or call an advisory election." As stated above, the Project is not consistent with Policy 3.01, and given its size and location outside the ULL, under Policy 3.01 and Policy 3.08, EBMUD will oppose the proposed annexation, and the District's Board of Directors will determine, at a regularly scheduled public meeting, whether to call an advisory election on the question of whether such territory should be annexed to EBMUD.

WATER SUPPLY IMPACTS

As the Project is located outside of EBMUD's USB, EBMUD has not planned to, nor does it have sufficient water supplies to, serve the Project. In addition, the water demand for the Project is not included in any of EBMUD's water supply planning documents, including its Urban Water Management Plan (UWMP). While EBMUD may have sufficient water supplies from the Mokelumne River to serve existing and planned growth during normal runoff and single dry years, Mokelumne River and local watershed supply is not sufficient to meet 2040 customer demands during multi-year droughts without achieving potentially significant water use

reductions and obtaining supplemental supplies. Refer to EBMUD's UWMP 2015 located on the EBMUD website at http://www.ebmud.com/water-and-drought/about-your-water/water-supply/urban-water-management-plan/.

As stated on page 3.13-25 of the Draft EIR, under Water Demands during Single- and Multiple Dry-Year Conditions, the WSE assumes the Project would achieve half of the conservation goal set by the water utility in multiple dry years. While this assumption may have been used to provide a more conservative assessment of water supply sufficiency, please understand that if the Project were to be annexed into EBMUD's USB, it would be required to adhere to all EBMUD drought restrictions as outlined in the UWMP 2015, including water use restrictions established pursuant to the District's Drought Management Program (DMP) Guidelines. Under the current DMP Guidelines, water use restrictions may be determined based upon either projected end-of-September Total System Storage (TSS) or water use restriction mandates from the State Water Resources Control Board (SWRCB). When state-mandated water use restrictions exceed the reductions that would otherwise be called for based upon the end-of-September TSS, EBMUD's water use reduction requirements may be guided by the applicable state mandates. Under either scenario, while EBMUD has a goal of maintaining mandatory water use reductions at or below 15 percent, if the drought is severe, mandatory water use reductions could exceed 15 percent. Under the most recent drought, EBMUD declared a Stage 4 Drought and a mandatory District-wide conservation goal of 20 percent water use reduction and adopted mandatory water use prohibition and restriction regulations. This 20 percent conservation goal met the requirements of both state drought emergency orders and the SWRCB extension of its emergency water conservation regulations. 49 CONT

GROWTH-INDUCING IMPACTS

As explained further below, the Draft EIR does not adequately address the water supply source for the Project and must include a detailed discussion of the water supply source, including water treatment and transmission facilities, needed to serve the Project. There should also be an analysis of growth-inducing effects the Project may have in the greater Camino Tassajara Valley, for example, residences on Finley Road and the implications and impacts of obtaining water sources to serve the potential growth. Further discussion concerning the proposed water source for the Project is provided below.

WATER DEMAND PROJECTIONS

EBMUD reviewed the water demand estimates provided in the Draft EIR, Section 3.13. The total residential demand was estimated by the Project sponsor to be 39 acre-feet (ac-ft) per year or 34,814 gallons per day (gpd) for 125 single-family residential homes and up to 47 ac-ft or 41,956 gpd for the 125 residential units, a trailhead restroom, and streetscaping during dry years. The WSE assumes that the development will achieve all of the water conservation goals set by Contra Costa County and the State of California even in areas where the water conservation goals are not required like the backyard landscaping. The WSE further reduces the Project water demand by assuming that there will be 1,500 square feet (sf) of hardscape per lot, which appears high for 5,000-sf and 7,500-sf lots. Based on historical data, EBMUD's standard estimate for

single-family residential homes in the surrounding area, which includes the cities of San Ramon, Danville and Alamo, is about 580 gpd. For 125 homes, a trailhead restroom, and one acre of streetscaping, EBMUD anticipates the annual water demand would be 75,500 gpd, almost twice the demand estimated in the Draft EIR. The Draft EIR should be adjusted to reflect a more reasonable water demand for the Project.

WATER SERVICE

The water supply alternatives described in the Draft EIR will impact EBMUD's water distribution system. The Project is located north of Camino Tassajara, adjacent to EBMUD's Scenic Pressure Zone (PZ), which serves an elevation range between 650 and 850 feet. If the Project is annexed into EBMUD's USB, the Project would be served by the Scenic PZ.

Per EBMUD Engineering Standard Practices, water distribution facilities are sized to meet the maximum day demand, not the average annual demand, as it is not enough to size facilities to be able to supply water only on an average day. As the maximum day factor between the average annual demand and the maximum day demand is 2.5 for the Scenic PZ, the maximum day demand for the Project is estimated to be about 189,000 gpd.

Based on projected future demands for the Scenic PZ, there is a current deficiency in pumping and storage capacity; adding additional demand from the Project would further exacerbate the deficiency. The Draft EIR needs to include an analysis and identify all the capacity improvements that would be required to serve the Project beyond just extending a distribution pipeline should the Project be annexed. 49 CONT

If the Project is annexed to EBMUD's service territory, the Project sponsor would be required to enter into an Advanced Payment Agreement (APA), Preliminary Work Deposit per Section 3B of the Regulations Governing Water Service to Customers of EBMUD, at the Project sponsor's expense, to complete the planning for any new major facilities (reservoir, pumping plant, and pipelines) that may be required to serve the Project. Subsequent design and construction APAs would be required and fully funded by the Project sponsor.

ANALYSIS OF WATER SUPPLY

Section 3.13.2 of the Draft EIR and the Project WSE, which was attached to the Draft EIR, propose two water supply sources to meet or offset estimated Project demands: water to be supplied by the Calaveras Public Utility District (CPUD) or existing potable water supplies through the development of additional recycled water projects paid for by the Project sponsor.

CPUD Water Supply

While the Draft EIR identifies pre-1914 water purchased from CPUD as the first water supply option to meet the water demand of the Project (Draft EIR, Section 3.13.2), there is a fundamental question as to whether such a supply could legally be provided to the Project, given

the water rights and agreements on the Mokelumne River and, if it could, whether such actual "real" water exists. The following water rights issues were identified by EBMUD:

1) The May 8, 1940 Agreement between CPUD and EBMUD determines the respective rights of CPUD and EBMUD and was entered into, in part, to quantify CPUD's pre-1914 water rights. The agreement provides that CPUD has pre-1914 water rights to divert up to 12.5 cubic feet per second (cfs)[1] from the South Fork of the Mokelumne River, as augmented by diversion from the Middle and Licking Forks of said river, for industrial, domestic, mining and agricultural purposes "within the boundaries of" CPUD (*Paragraph 1 – 1940 Agreement*). The Project is located within Contra Costa County, well outside the boundaries of CPUD. Thus, EBMUD does not believe this portion of CPUD's pre-1914 right may be used as a source of water supply for the Project.

2) The diversion or storage by CPUD in excess of the above amounts is junior to EBMUD's Pardee municipal right (*Paragraph 2 – 1940 Agreement*). Thus, if the source of Project water is from a purported CPUD claim to pre-1914 water over and above the pre-1914 water quantified in Section 1 of the 1940 Agreement, such water is junior to EBMUD and cannot impact or injure EBMUD's ability to divert under its senior rights. Such an impact would be inconsistent with the 1940 Agreement and could cause environmental impacts as well.

3) In addition, the 1940 Agreement provides that any diversion or storage by CPUD for the generation of power is junior to EBMUD's Pardee municipal right and power rights (*Paragraph 3 – 1940 Agreement*). Thus, if the water proposed to be sold by CPUD to the Project proponents is to be released from Schaad Reservoir to generate power, that use would also be junior to EBMUD's Pardee rights and cannot impact or injure EBMUD's ability to divert under its rights.

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4) CPUD's pre-1914 water right is part of the 27,000 ac-ft reserved for Calaveras County by the State of California in its "State Filing" made in 1927, under Application 5648, to hold water for future use in Calaveras County. CPUD has a permit (Permit 16338) granted to it in 1971 under the State Filing. In its role as the administrator of State Filings, in March 1959, the Department of Water Resources issued a Release From Priority, under which 27,000 ac-ft of water is reserved for Calaveras County. The Release explicitly provides that the reservation is "for use in Calaveras County . . . ." *(Condition 2, Release From Priority)*. Permit 16338 itself contains a similar limitation, providing in Term 7 that water use is "in Calaveras County . . . ."

   Therefore, as with the 1940 Agreement's limitation discussed above describing CPUD's pre-1914 right, water use under CPUD's Permit 16338 must also be within Calaveras County. The Project, as it is located in Contra Costa County, is well outside that Calaveras County place of use. Thus, EBMUD does not believe any portion of water enveloped within Permit

[1] The 1940 Agreement also provides that CPUD's pre-1914 right includes the right to use a portion of the 12.5 cfs (up to 1,800 ac-ft) for diversion to storage in the Reservoir on the Middle Fork of the Mokelumne River (Schaad Reservoir) (*Paragraph 1 – 1940 Agreement*).

16338, whether a pre- or post-1914 water right, may be used as a source of water supply for the Project.

5) Water stored in Schaad Reservoir for hydropower generation is junior to EBMUD's Pardee municipal and power rights. As such, sale of this water could result in injury to EBMUD's senior water right.

EBMUD also finds that the Schaad Reservoir operations analysis in the Draft EIR, Section 3.13, and WSE, Section 3.3.1, is insufficient to assess impacts to CPUD and EBMUD's water supply for existing customers in the future for the following reasons:

1) The analysis is limited to a narrow 20-year period of the years of 1995 to 2015. Modeling of a longer period of record is needed to properly assess impacts.

2) The WSE indicates that water stored in Schaad Reservoir is released for hydropower generation, fishery release requirements, and water deliveries to Calaveras County Water District. According to intermittent reports filed by CPUD under Statement S010773 dating back to 1982 from eWRIMS (SWRCB electronic website on Water rights reports), domestic, mining, and agricultural usage was higher than indicated in the analysis.

3) If the issues EBMUD raises above concerning the 1940 Agreement and 1927 State Filing/Permit 16338 are somehow resolved, the Project sponsor must demonstrate through in-depth modeling or simulation that real additional water is made available through Schaad Reservoir. The analysis provided in the Draft EIR is insufficient to prove that water from Schaad Reservoir is not already a part of EBMUD's water rights.

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4) After the creation of real additional water is proven, any reservoir reoperation transfer from Schaad Reservoir must include a refill agreement with EBMUD. The charts presented in the WSE are misleading without a proper refill agreement factored in. By not modeling a refill agreement, the WSE presents artificially high reservoir levels that do not reflect what would be required to address EBMUD water supply impacts.

5) The Draft EIR and WSE do not consider the impact of the new additional demands on emergency water supplies. The proposed Project assumes that water would move to EBMUD's service area via EBMUD's Mokelumne Aqueducts. As described in the UWMP, it is EBMUD's practice to maintain 180 days of local storage in its East Bay reservoirs to meet its customers' demands in case of an emergency such as aqueduct outage. EBMUD would need to assess this new additional demand in relation to the emergency standby storage, recovery via aqueducts, and existing agreements EBMUD may have with other local agencies to wheel water during emergencies.

6) The Draft EIR and WSE should include adequate analysis to show that there are no significant impacts on the Schaad Reservoir water supply, power generation, and recreation due to reoperating Schaad Reservoir for diverting water supplies to EBMUD.

7) The CPUD supply must be analyzed using the Project water demands as estimated by EBMUD in the range of 75,500 gpd.

In addition, even if the CPUD supply was determined to be adequate and consistent with existing water rights agreements, there is a substantial administrative cost for EBMUD to coordinate with CPUD and assure that refill conditions are properly met. It is also unclear how EBMUD could enforce terms of a transfer refill agreement to assure that EBMUD water supplies are not impacted after the Project is built and the demands are being served.

Recycled Water Offset

The Draft EIR identifies recycled water as the second water supply option to augment the availability of potable water to meet the water demand of the Project (Draft EIR, Section 3.13.2). In addition to recycled water, water conservation projects funded by the Project sponsor should be added as an approach to offset potable water demand. If the Project was annexed to EBMUD, a detailed agreement with EBMUD describing how the potable water offset would be created and managed would be required to address water supply needs and determine the feasibility of the recycled water and/or conservation offset option. Typical offsets for a development outside of EBMUD's USB have been at least a 2-for-1 demand offset. A higher offset may be warranted for this Project, since the Project sponsor is proposing to add onto an existing recycled water project that EBMUD could fund itself at a future date.

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CONT

The Draft EIR identifies a 1.8-mile recycled water pipeline within the right-of-way of San Ramon Valley Boulevard, from Alcosta Boulevard to Montevideo Avenue, as the method of extending the recycled water infrastructure and developing a water supply offset. The Dublin San Ramon Services District (DSRSD)-EBMUD Recycled Water Authority (DERWA) recycled water system is currently limited based upon available wastewater supply as well as water treatment, pumping and transmission capacity. The Draft EIR needs to include an analysis and identify all the capacity improvements that would be required in order to add customers to the San Ramon Valley Recycled Water Project (SRVRWP) beyond just extending a distribution pipeline. There would also need to be a commitment for a new supply of wastewater, in addition to wastewater already committed to the SRVRWP that would be used to make the recycled water. In addition, with the larger Project demand estimated by EBMUD, the size of the recycled water project will need to grow accordingly to account for the potable water offset.

Note that if all the above issues are resolved, such that real water is available for the Project consistent with the law, and if the Project is annexed into EBMUD's service area, significant effort and lead time will then be required to address potential impacts to EBMUD's water rights and obtain approvals on the state and federal levels. Pursuant to a Long Term Renewal Contract (Contract) with the United States Bureau of Reclamation (USBR), EBMUD has the right to purchase water from the Central Valley Project (CVP) in dry years to supplement its core supply obtained from the Mokelumne River. The Contract requires EBMUD to apply to the USBR for inclusion of any annexed territory so that, if included, the annexed territory would also be authorized to receive CVP water during dry years. To add the Project to the CVP's place of use, approvals would be required by the USBR and other federal agencies including the Army Corps

of Engineers. Mitigation measures may be required for the proposed development as a part of the federal approval process.

In addition, to serve the annexed area, the SWRCB would also need to approve a change petition to add the Project area to EBMUD's place of use under its water rights. This is a time-consuming process, better measured in years, not months, and EBMUD would require the Project proponents to enter a cost reimbursement agreement to recover its staff and permitting costs associated with these filings. Finally, the SWRCB should be added as a responsible agency to the Draft EIR, as the SWRCB will need to rely upon it as environmental documentation for its consideration of a change petition related to the Project.

EBMUD staff would be willing to meet with the Project sponsor and Contra Costa County to discuss water supply strategies. You can contact me at (510) 287-1365 to initiate discussions with EBMUD staff or if you have any questions concerning this response.

Sincerely,

David J. Rehnstrom
Manager of Water Distribution Planning

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CONT

DJR:SHT:dks
sb16_094.docx

Attachments: EBMUD Policy 3.01 – Annexations
EBMUD Policy 3.05 – Considerations for Extension of Water Beyond the Ultimate Service Boundary
EBMUD Policy 3.08 – Advisory Election for Annexations Outside the Contra Costa County Urban Limit Line

cc: David Bowlby
3000 F Danville Boulevard, #409
Alamo, CA 94507

Miller Starr Regalia
Attention: Nadia Costa
1331 North California Boulevard, 5th Floor
Walnut Creek, CA 94596

Miller Starr Regalia
Attention: Bryan Wenter
1331 North California Boulevard, 5th Floor
Walnut Creek, CA 94596

FT Land
c/o Anderson & Bonnifield
Attention: Mike Bonnifield
1320 Willow Pass Road
Concord, CA 94520

EBMUD

Policy 3.01

EFFECTIVE 24 NOV 15

SUPERSEDES 27 OCT 09

ANNEXATIONS

IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Consider annexing territory, when requested by owners of the property or public agencies having jurisdiction.

Conditions

Annexations are subject to the following conditions:

- The proposed annexation shall either be within EBMUD's Ultimate Service Boundary, or comply with Policy 3.08 – Advisory Elections for Annexations Outside the Contra Costa County Urban Limit Line.
- Generally, there should be an immediate need for water service on part or all of the territory being annexed.
- The territory proposed for annexation should include any parcels required to make a logical boundary.
- The annexation should facilitate the operation of the utility and be of advantage to the community.
- The annexation should be economically sound and water service technically feasible.
- Territory within the boundaries of the East Bay Watershed Master Plan, but lying outside the boundary of the Briones Hills Agricultural Preservation Area (BHAPA) must:
  - Have adequate facilities for removal of sewage from the watershed; and
  - Be under agreement or permanent deed restriction with EBMUD to protect the quality of source water under the influence of the territory.
- Territory shall be outside the boundary of the BHAPA as adopted by Contra Costa County and signatory cities, except where:
  - The territory is in EBMUD or other public agency ownership and will remain in public ownership; and
  - EBMUD obtains agreements or permanent deed restrictions from the public agency owner that provide for protection of the quality of source water under the influence of the territory.

  EBMUD policy shall be to express opposition to annexation of privately held parcels within the BHAPA boundary.
- If the proposed annexation extends beyond the Contractor Service Area of EBMUD's Central Valley Project (CVP) water supply contract, EBMUD shall request the United States Bureau of Reclamation (USBR) to include the proposed annexation in the Contractor Service Area in compliance with Article 35 of the CVP water supply contract. EBMUD shall also request the responsible Local Agency Formation Commission to condition water service to the annexed territory until receipt of USBR's formal approval of the inclusion.

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CONT

Territory Outside of Ultimate Service Boundary

EBMUD shall express opposition to all proposed annexations outside of the Ultimate Service Boundary unless:

a) The requested annexation is a small boundary adjustment found by EBMUD to be in its best interests based on the following conditions:

(1) The property and dwelling units are the smaller part of a larger development project located primarily within the Ultimate Service Boundary;

(2) The development project is desired and approved by the city or county land use planning agency with jurisdiction, and the land use planning and environmental documentation recognizes EBMUD as the logical provider of water service;

(3) Annexation of the property to EBMUD represents the most practical and feasible method of obtaining water service;

(4) The cumulative number of dwelling units outside the Ultimate Service Boundary added as a result of such small boundary adjustments shall not exceed 100 in any two-year period;

(5) The project proponent has agreed to cooperate with EBMUD in adding the territory to EBMUD's permitted place of use and has agreed to compensate EBMUD for costs incurred; and

(6) EBMUD Policy 3.05 – Considerations for Extension of Water Beyond the Ultimate Service Boundary, and Policy 9.03 – Water Supply Availability and Deficiency, are satisfied with regard to the effects of extension of water beyond the Ultimate Service Boundary; or

b) The requested annexation is to mitigate health risks, as established by the appropriate agency, associated with existing water supplies; the project proponent has agreed to cooperate with EBMUD in adding the territory to EBMUD's permitted place of use; and has agreed to compensate EBMUD for costs incurred.

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Authority

Resolution No. 20996, June 8, 1962
Amended by Board Motion No. 91-012, February 14, 1991
Amended by Resolution No. 33116-98, August 11, 1998
Amended by Resolution No. 33365-03, July 8, 2003
Amended by Resolution No. 33634-07, October 9, 2007
Amended by Resolution No. 33732-09, October 27, 2009
Amended by Resolution No. 34059-15, November 24, 2015

References

Policy 3.05 – Considerations for Extension of Water Beyond the Ultimate Service Boundary
Policy 3.08 – Advisory Election for Annexations Outside the Contra Costa County Urban Limit Line
Policy 9.03 – Water Supply Availability and Deficiency

EBMUD

Policy 3.05

EFFECTIVE 26 APR 16

SUPERSEDES 14 NOV 06

CONSIDERATIONS FOR EXTENSION OF WATER BEYOND THE ULTIMATE SERVICE BOUNDARY

IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT THAT:

The District will not extend water to areas outside the present Ultimate Service Boundary (USB) of the District, if such extension could result in:

1. A reduction in the quantity of water available to District customers to satisfy existing or projected levels of demand; or

2. A reduction in the quality of water available to District customers from the District's present water sources; or

3. An increase in costs of service for District customers.

The USB defines the territory within which the District has planned to provide water service. The phrase "District customers" as used in this policy shall mean (i) existing water service customers of the District and (ii) future customers, located within the present USB, but not now receiving water service.

This policy shall not apply to proposed annexations of property to the District's service area within the USB. All extensions and annexations shall continue to be evaluated on a case-by-case basis.

Authority

Board Motion, adopted on March 8, 1983
Amended by Resolution No. 33236-01, February 13, 2001
Amended by Resolution No. 33564-06, November 14, 2006
Amended by Resolution No. 34080-16, April 26, 2016

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EBMUD

Policy 3.08

EFFECTIVE 14 SEP 10
SUPERSEDES 14 OCT 08

ADVISORY ELECTION FOR ANNEXATIONS OUTSIDE THE CONTRA COSTA COUNTY URBAN LIMIT LINE

IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Call an advisory election if EBMUD is designated as the preferred water service provider by a local planning agency in its environmental documentation when the proposed development is located outside the Urban Limit Line adopted by Contra Costa County in 2000.

Purpose

The purpose of the election shall be to submit to the voters within the EBMUD service area the question of whether territory outside said Urban Limit Line should be annexed to EBMUD.

Events Triggering an Advisory Election

- EBMUD is identified by a local planning agency in its environmental documentation as the preferred provider to deliver potable water service to a residential development of 200 or more dwelling units located in territory beyond the Contra Costa County Urban Limit Line. In such cases, the matter shall be placed on the agenda for consideration by the Board of Directors at a regularly scheduled public meeting. If the Board of Directors determines not to oppose annexation of such territory to EBMUD, EBMUD shall call an advisory election on the question of whether such territory should be annexed to EBMUD. The advisory election shall occur prior to the time the Contra Costa County Local Agency Formation Commission is scheduled to consider annexation of the territory to EBMUD and, when possible, shall be consolidated with a general election.

- If a local agency designates EBMUD as the preferred provider for water service to a residential development in territory outside the Contra Costa County Urban Limit Line that is less than 200 dwelling units and is not covered by the provisions of Policy 3.01, then EBMUD shall oppose the annexation and the Board of Directors shall determine, at a regularly scheduled public meeting, whether to call an advisory election on the question of whether such territory should be annexed to EBMUD.

- This policy shall be applied consistent with and in furtherance of the provisions of Policy 3.01 – Annexations.

49 CONT

Authority

Resolution No. 33347-03, January 28, 2003
Amended by Resolution No. 33564-06, November 14, 2006
Amended by Resolution No. 33687-08, October 14, 2008
Amended by Resolution No. 33780-10, September 14, 2010

References

Policy 3.01	Annexations
Policy 3.05	Considerations for Extension of Water Beyond the Ultimate Service Boundary
Policy 3.07	Responsibility to Serve Water Customers
Policy 7.03	Emergency Preparedness/Business Continuity
Policy 7.09	Workplace Safety and Health

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: November 14, 2016

MEMO TO: David J. Rehnstrom, Manager of Water Distribution Planning Division

FROM: Timothy R. McGowan, Senior Civil Engineer of Major Facilities Planning

SUBJECT: Tassajara Parks Project Water Demands and Scenic Pressure Zone Capacity

WATER DEMANDS

The Tassajara Parks Project (Project) includes the following elements (Section 3.13 of the Recirculated Draft Environmental Impact Report (EIR), pages 3.13-23 and 24):

- 125 single-family homes on 5,000 square-foot and 7,500 square-foot lots
- Streetscaping
- Trailhead bathroom

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Section 3.13 of the Recirculated Draft EIR (page 3.13-25) states that the average annual demand for the Project is 42 acre feet (af) prior to considerations of non-revenue water and the effect of dry years on exterior irrigation water demand, 46 af when considering non-revenue water, and up to 48 af when considering increased exterior irrigation demand during a dry year. Forty-two af is equivalent to 37,495 gallons per day (gpd).

The Project is located adjacent to the District's System Capacity Charge (SCC) Region 3. The average annual demand in SCC Region 3 for a single-family home is about 580 gpd resulting in an average annual demand of 75,339 gpd. This does not include the non-revenue water or increased irrigation demand during a dry year.

Calculation:	125 homes x 580 gpd/home	=	72,500 gpd
	Streetscaping + Trailhead (from Recirculated Draft EIR)	=	2,839 gpd
	TOTAL	=	75,339 gpd
			Round to 75,500 gpd

The maximum day demand (MDD) is used to size facilities needed to serve the Project. As the Project has the same service elevation range and climate as the Scenic Pressure Zone (PZ), the peaking factor for this pressure zone is 2.5; therefore, the MDD is 188,750 gpd or 0.19 million gallons per day (MGD).

IMPACTS ON SCENIC PZ

Per the District's Engineering Standard Practice 492.2, Distribution Reservoir and Pumping Plant Planning Criteria (see attached), reservoirs are sized at 1.0 MDD, and pumping plants are sized at 1.5 x MDD.

If annexed, the Project would be served by the Scenic PZ and will add additional demand on the Scenic PZ. A pressure zone schematic of the Scenic PZ cascade is shown in Figure 1. Based on planned growth within the District's Ultimate Service Boundary within the Scenic PZ, there is a planned deficiency in storage and pumping, and the Project would exacerbate the deficiency, as shown in Table 1.

TABLE 1
Capacity Deficit for Storage and Pumping

Facility Type	Existing Capacity	2040 MDD[1]	Capacity Deficit	Tassajara Parks Added Demand	Total Capacity Deficit
Storage	9.0 MG	10.1 MG	1.1 MG	0.19 MG	1.29 MG
Pumping	25.3 MGD	27.7 MGD	2.4 MGD	0.28 MGD	2.7 MGD

Note: 2040 Demand Study, February 2009.

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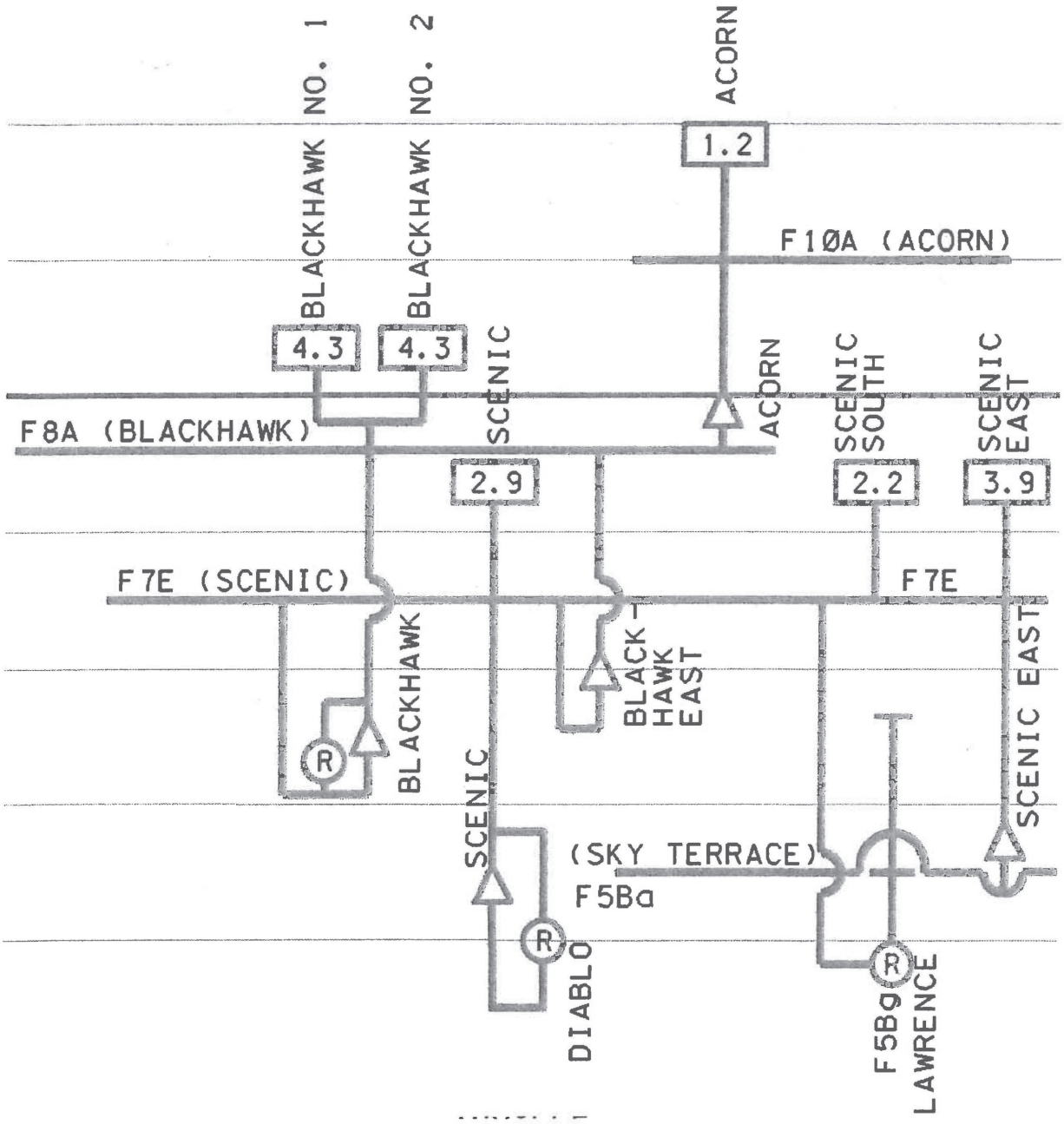
Per Section 3B of the Regulations Governing Water Service to Customers of the East Bay Municipal Utility District, the project sponsor would be required to enter into an Advanced Payment Agreement (APA), Preliminary Work Deposit, at the project sponsor's expense, to complete the planning for any new major facilities (reservoir, pumping plant, and pipelines) that may be required to serve the project. Subsequent design and construction APAs would be required and funded by the project sponsor.

TRM:dks
sb16_216

Attachment: Engineering Standard Practice 492.2

cc: Sandra Jung
Stella Tan
C-1630



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CONT

Figure 1
Scenic Pressure Zone Cascade

ENGINEERING STANDARD PRACTICE	ESP	492.2
SUBJECT: **DISTRIBUTION RESERVOIR AND PUMPING PLANT PLANNING CRITERIA**	EFFECTIVE	**18 DEC 03**
	SUPERSEDES	**25 OCT 01**

PURPOSE

The purpose of this ESP is to establish guiding criteria for the planning of new, replacement and upgraded reservoirs and pumping plants (PPs) in the distribution system, including the determination of requirements for major facilities related to an applicant's request for extension of water service. The objective is to plan cost-effective facilities that provide acceptable operational reliability and level of service. The detailed design and construction of reservoirs and PPs shall conform to District engineering and operations criteria and standards, and current design practices.

GENERAL

Storage reservoirs and PPs in the distribution system shall be sized and located to meet the estimated water service requirements of the District's customers, including consideration of projected water demands and fire flows (FF).

Capacity shall be provided for existing customers, proposed development, and adjacent future development. The proposed and future development shall be within the District's Ultimate Service Boundary (USB) and within the Sphere of Influence (SOI) established by the Local Agency Formation Commission. When specifically authorized by the Board of Directors (Board), areas outside the USB and SOI shall be considered in the planning of facilities. Areas outside the USB and SOI can be analyzed for information purposes, where needed, without Board approval.

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DEFINITIONS

Average Demand (AD) – is the average demand during a particular year and is expressed in terms of daily demand (million gallons per day or MGD). Water Consumption Online or Water Consumption Information System data is used to develop the AD. Demand projections are based on AD.

Maximum Day Demand (MDD) - the demand during the day with the most water demand of all the days during a particular year. The future or predicted MDD for a particular pressure zone (PZ) is calculated by multiplying the AD (either projected or actual respectively) by a multiplier. The multiplier is developed based on analysis of historical records of the ratio of MDD to AD during the warm weather months. Historical MDD information is developed using OpNet information.

Storage to Demand Ratio (S:D) - the ratio of storage volume to daily demand. The highest storage volume required will be the calculated value on MDD. Subzone S:D can be considered independently of PZ S:D.

Pumping to Demand Ratio (P:D) - PP capacity, not including the standby unit, divided by the MDD of the PZ and supplied PZs. Subzone P:D can be considered independently of PZ P:D.

Level of Service (LOS) - LOS refers to customer residual service pressure meeting standard practices and/or maintaining adequate FF (defined in ESP 492.1, Water Main Planning Criteria).

Coincidence Factor (CF) - MDD and peak hour demands do not occur simultaneously in all PZs. The larger the area, the greater the difference between predicted MDD (sum of predicted PZ MDDs) and actual regional MDD. The CF is a number (less than 1.0) that corrects predicted regional MDD to actual regional demands. The CF is developed through special, detailed analyses comparing predicted MDD to actual water produced by water treatment plants or large PPs during peak demand periods.

Subzone - PZs will often have distinct areas that act as separate PZs. Typically this will be due to a combination of hydraulic restrictions (pipe diameter) and distance. These are defined as subzones. Subzone demands should be developed and subzone facilities sized based on the subzone demands.

Operating Storage - the volume of storage that can be used to meet LOS. Typical District reservoirs and customers are located such that the operating storage is limited to approximately the top 30 percent of a reservoir (water level ranging from 70 to 100 percent). The standard sizing criteria for storage (1.0 x MDD) results in about 8 hours of operating storage for most PZs.

Emergency Storage - the volume of water that is not available for operating storage (i.e., cannot maintain LOS) is emergency storage. Emergency storage is storage available at a reduced LOS during unplanned emergency conditions such as system failures or other operational problems. It is also available for extended planned facility outages if necessary and for major events such as an earthquake or fires. The standard sizing criteria for storage (1.0 x MDD) results in about 16 hours of emergency storage for most PZs.

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DEMAND AND FF

Demand and FF requirements shall be determined as specified in ESP 492.1, Water Main Planning Criteria.

WATER QUALITY

Water quality shall be addressed in the planning of distribution facilities. The primary consideration regarding water quality is achieving a low and, to the extent feasible, uniform water age within each PZ. Low water age is especially critical in zones supplied by local terminal reservoir treatment plants and zones with significant quantities of unlined cast iron pipe. Planning of distribution reservoirs and PPs should consider incorporating features that will provide operational flexibility to achieve a minimum uniform water age using techniques such as listed below.[1]

- Synchronized pumping and minimize pumping during highest demand period.
- Seasonal operating ranges.
- Seasonal removal of reservoirs from service.
- Regulating water down to lower PZs.
- Remotely controlled valves for reservoir operation.

- Pulse flow.
- Inlet/outlet (I/O) pipeline design.
- Reservoir mixing.

(1) *A discussion of most of these techniques is contained in the paper "Distribution System Modeling for Development of Water Quality Based Operating Procedures," American Water Works Association, Computer Conference Proceedings, April 1996, Chicago, Illinois.*

FACILITY – SPECIFIC CRITERIA

1. Pumping Plants

A. PPs shall be located to provide the most effective distribution of low-age water and effectively recover storage. Issues of water quality, seismic risk, environmental impact on the surrounding community (including traffic, aesthetics and noise), topography, geology, economics, and conservation of hydraulic energy must be considered.

B. The number, size and locations of PPs shall consider planned and emergency facility and power outage scenarios. In particular, PPs shall be located so that they may continue to operate if a source reservoir is removed from service (i.e., the pumps must have adequate inlet pressure).

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C. New PPs shall be sized to pump at a rate equal to 1.5 times the projected MDD. The MDD of all the PZs that the PP supplies, i.e., base PZs plus upper PZs, shall also be included. The demand may be adjusted by a CF if the facility is of a regional nature. The CF must be calculated on a case-by-case basis.

For existing plants, the P:D ratio may drop below 1.5 as water demands increase in the system. The standby pump unit must be able to operate together with the duty pump unit(s) to achieve an adequate short-term PP capacity increase near or above a ratio of 1.5. Acceptable ratios below 1.5 must be evaluated on a case-by-case basis. The P:D ratio without the standby pump should not be allowed to fall below 1.0.

Existing PPs that are being rehabilitated with new electrical motor control centers shall be sized to a 1.5 ratio where cost effective unless the extra PP capacity is being (or is planned to be) used to offset other facilities such as storage. PPs being rehabilitated that have less than 1.5 ratios shall be improved to 1.5 unless modified standards are approved.

Example: The *Alpha* PZ is served by the *Alpha* PP - a new facility with two duty pumping units and one standby unit. The projected P:D ratio for *Alpha* PZ is 1.3. The projected S:D ratio for *Alpha* PZ is greater than 1.0, and the PP can operate both duty units and the standby unit simultaneously (temporary P:D ratio of about 1.9).

Conclusion: PZ pumping capacity is adequate and no project is recommended to improve the *Alpha* PP to the ESP standard P:D ratio of 1.5. The *Alpha* PP can be upgraded to 1.5 ratio during the next scheduled PP unit replacement cycle.

D. PP analysis shall include preliminary evaluation of pressure transients and impact mitigation, including the possible use of surge tanks. This is not only to prevent physical damage but also to ensure no negative pressures occur within the distribution system during normal pump shutdown operations.

E. Phasing of pumping capacity should be considered for PZs with large water demand growth projections over a significant timeframe or where projected future demands may not materialize, to reduce water quality impacts and to efficiently stage capital construction.

F. Site planning shall consider the following space issues:

1) Type and number of pumps (variable vs. constant speed, horizontal vs. vertical shaft, etc.) and space for empty pump bays for future expansion or pumping capacity optimization. At least one spare pump unit shall be provided at each PP, equivalent in size to the largest unit. Pump units should be sized to provide operational flexibility for seasonal demand conditions (i.e., winter vs. summer demands). All pump units, including the spare unit, should be capable of running simultaneously (electrical transformer sizing, PG&E line capacity, discharge pressure, customer service pressure, and I/O pipeline sizing issues). The type and number of pumps should be selected based on life-cycle costs including operation and maintenance. Future energy issues should be evaluated in the life-cycle analysis.

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2) On-site emergency power generation and portable pumping connections. All PPs should include quick disconnects for portable generators and portable pump connections. Permanent emergency power generation should be considered if the PP is a critical facility or when a PZ has a single PP. The location and reliability of PG&E power are important factors for making this decision. Provision of permanent emergency power or dual power sources should be addressed as a modified standard.

3) Future PP expansion.

4) Electrical transformers and external switchgear.

5) Ventilation equipment.

6) Equipment to mitigate transient pressure (e.g., surge tank or valving).

7) Reasonable access for equipment including cranes and boom trucks and parking for operations and maintenance needs.

8) Landscaping and fencing.

9) Operator desk stations.

10) Restroom.

11) Noise mitigation.

2. Distribution Storage

A. Reservoirs shall be located to provide the most effective distribution of water to meet demand and FF requirements, recognizing the issues of potable water quality, geology, seismic risk, land availability, environmental impact on the surrounding community (including traffic and aesthetics), topography, economics, and conservation of hydraulic energy. Consideration shall be given to planning more than one reservoir in different parts of the zone to increase reliability, provide more efficient sizing of water mains, and provide more flexible operation.

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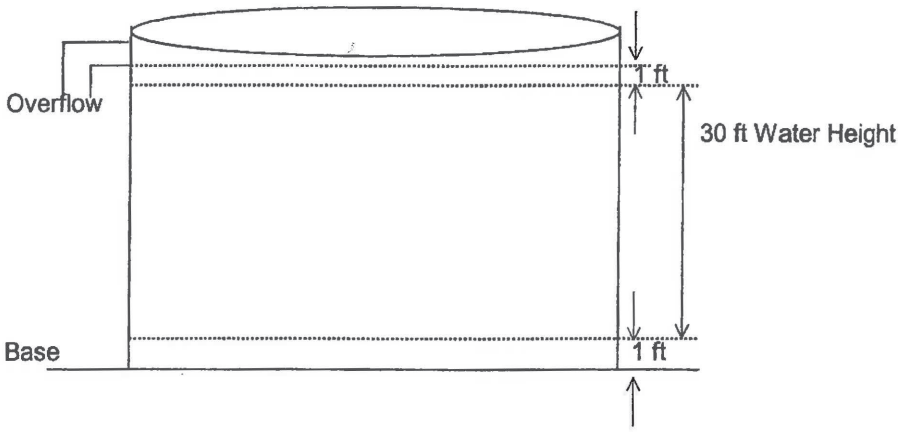
Some existing storage may not be available for operational use due to hydraulic considerations; for example, when a reservoir overflow elevation is below the normal system hydraulic gradients. The disposition of storage in these situations should be addressed as a modified standard.

B. The number, size and location of reservoirs shall consider both planned and emergency outage scenarios.

C. A new reservoir shall be located so that the overflow elevation matches existing reservoir overflow elevations in the PZ. If there are no existing reservoirs or the existing reservoirs are planned to be rebuilt and the overflow elevation raised, the reservoir shall be located to maintain a minimum customer service pressure of 40 pounds per square inch during peak hour (MDD) demands with the reservoir at 50 percent capacity. Replacement of existing reservoirs will maintain the former overflow elevation at a minimum.

D. Reservoir elevations, both overflow and bottom, should be consistent throughout the PZ. The water height guideline (not including 1 foot above the base elevation and 1 foot below overflow elevation) for a standard steel or concrete tank is 30 feet. See figure below.



The tank width to depth ratio should be greater than or equal to 1.5 to ensure structural stability. Tanks with width to depth ratios less then 1.5 should be addressed as a special condition.

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E. PZ storage sizing:

1) Reservoirs shall be sized to provide 1.0 times the projected MDD as defined by the current District planning period. The top 30 percent of the storage is for operational storage (approximately 8 hours), and is assumed to be fully consumed at any time during normal operation of the system; the bottom 70 percent is for emergency storage (approximately 16 hours).

2) Storage in a PZ may be reduced below 1.0 times MDD if there is supply available from a higher PZ (via regulator) or PP capacity that is excess to standard practice. Reducing PZ storage below 1.0 shall be considered as a modified standard.

3) Above Zone Storage Credit via Regulator - Excess storage in higher PZs counts on a 1:1 basis with in-zone storage.

- With adequate PP and regulator capacity, storage can be located in upper zone.
- Storage in higher zone must be excess to higher PZ demands (i.e., in excess of S:D of 1.0) and only the excess storage can be considered for lower zone credit.

- If storage credit in a higher zone is used, future planning for facilities in that higher zone must permanently accommodate the extra storage requirement.

- Minimum in-zone storage is desirable. However, in-zone storage may not be practical for many PZs due to the small size of a PZ or the lack of a suitable storage site. No in-zone storage or minimal in-zone storage shall be considered as a modified standard.

  If in-zone storage is practical, the following minimum criteria apply:

  - Minimum S:D of 0.67 for PZs that have LOS issues below 70 percent reservoir capacity.
  - Minimum S:D of 0.5 for PZs that can operate to 50 percent reservoir capacity without impacting LOS.

- Distribution system issues to be evaluated for above-zone storage credit are:

  - Hydraulic capacity of pipelines.
  - LOS issues - minimum pressure and change in pressure for customers during peak hour MDD, and residual pressure during FF.
  - Proximity of PZs – storage located a large distance from a lower PZ may not be suitable for above-zone storage credit (e.g., poor hydraulic connections or when special circumstances noted below apply to connecting pipelines).
  - Special circumstances (engineering judgment) - faults, landslides, sensitive customers (e.g., hospitals), and single feed to service area in question.

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Example: The *Bravo* PZ needs a new storage reservoir. The PZ can access storage from the next higher zone - *Charlie* PZ - via a regulator. Both *Charlie* and *Bravo* PZs have water quality issues that can be improved by reducing storage. The following is the recommended storage calculation in the *Bravo* PZ using above-zone storage credit criteria (note: *Bravo PZ* has LOS issues below 70 percent capacity; therefore, minimum required storage is S:D = 0.67):

Bravo PZ 2030 MDD = 1.6 MGD
Charlie PZ 2030 MDD = 1.4 MGD
Existing Charlie PZ storage capacity = 1.8 million gallons (MG)
Charlie PZ excess storage capacity = 1.8 – 1.4 = 0.4 MG
Recommended *Bravo* PZ storage capacity = 1.6 – 0.4 = 1.2 MG
(*Bravo* PZ S:D = 1.6 ÷ 1.2 = 0.75 - okay because greater than 0.67)

4) Pumping Credit via Excess Pumping Capacity - pumping capacity in excess of 1.5 times MDD reduces the amount of operating storage needed. Therefore, excess PP capacity can reduce (not eliminate) the amount of required in-zone storage according to the following criteria. The PP credit criteria is applicable to situations where the existing facilities, especially the reservoirs, are new or in good condition and would not normally be replaced for many years and where the S:D is less than 1.0. Other instances where these criteria might be applied are when reservoir size is constrained by site or other environmental issues.

- Extra PP capacity required (in terms of P:D ratio) to offset storage deficiency shall be calculated according to the formula:

  $1.5 + [(1 \div x) - 1]$

  where x = the projected (or actual) S:D ratio of PZ or subzone.

- The minimum required in-zone storage is S:D of 0.67 for PZ's that have LOS issues below 70 percent reservoir capacity; and, S:D of 0.5 for PZ's that can operate to 50 percent reservoir capacity without impacting LOS.

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- The issues to be evaluated in these circumstances are:

  - Hydraulic capacity of pipelines:
    - Will the larger PP over-pressurize system?
    - Are the PP units properly staged to accommodate low flow conditions?
    - Are there appropriately sized safety devices in the PP (pressure relief valves) to prevent over pressure issues?

  - LOS pressure for customers:

    - Will the PP cause adjacent customers to see excessive pressure or large changes of pressure (per ESP 492.1)?
    - Can low pressure and upper PZ areas be easily rezoned to allow operating range of reservoir to increase to 50 percent? Cost of reservoir vs. cost of rezoning should be analyzed.

  - Subzone issues – if there is a subzone issue, is the reservoir size based on the subzone demands?

  - A life-cycle cost analysis is required to determine the most cost effective alternative.

  - Special circumstance (engineering judgment) - faults, landslides, sensitive customers (e.g., hospitals).

Example: The *Delta* PZ has a projected demand of 4.9 MGD in 2030. The existing reservoir is 3.5 MG. The resulting S:D ratio is 3.5 ÷ 4.9 = S:D of *0.71* and is less than the ESP standard of 1.0. A minimum S:D ratio of 0.67 is required because of LOS issues below 70 percent in the *Delta* PZ. The *Delta* PZ PP capacity is 10 MGD and has no pass-through demand for higher zones and no adverse hydraulic issues. The P:D ratio = 10 ÷ 4.9 = 2.04. The pumping credit criteria is applied as follows:

Delta PZ Pumping:
Required additional P:D capacity = 1.5 + [(1 ÷ *0.71*) – 1] = 1.91

Conclusion: Existing P:D capacity = 2.04 which is greater than 1.91 and therefore okay. Existing storage is adequate because of existing excess PP capacity.

5) Fire fighting storage is included in the emergency storage component when total storage in the PZ is greater than or equal to 1.0 MG, and if hydraulic limitations do not restrict FF. If adding FF to demand storage exceeds 1.0 MG, no more than 1.0 MG is needed.

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When the storage in the PZ (or PZ subzone) is less than 1.0 MG, FF shall be addressed as a modified standard. Additional storage for FF may not be required in these circumstances or may not be possible given water quality issues. If FF storage is required, consideration should be given to accessing storage from a higher PZ via a regulator or providing pump connections for the fire agency to access lower PZ storage. If additional storage is determined to be necessary for FF, acceptable operational solutions must be identified to mitigate water quality impacts.

6) Planning for fire fighting storage will generally comply with requirements of the fire agency with jurisdiction, in accordance with the Uniform Fire Code. Unusual fire agency requirements (such as unusually large flow and/or duration or unusually large storage) should be addressed as a modified standard.

F. Both above-ground and buried reservoirs (either with or without soil cover) may be considered in the planning process.

G. Phasing reservoir capacity (e.g., more than one reservoir at one site) to meet future demands should be considered for PZs with large water demand growth projections over a significant timeframe or where projected future demands may not materialize. Phasing decisions should be addressed as a modified standard.

H. Site planning issues shall consider the following space issues:

1. Appropriate overflow and drainage pipelines and structures.
2. Onsite emergency power generation and pumping.
3. Reasonable access and parking for operations and maintenance needs.
4. Valve pit location and dimension.
5. Minimizing landscaping needs.
6. Fencing.

MODIFICATION OF STANDARD PRACTICE CRITERIA

1. Standards may be modified when unusual conditions exist, including but not limited to, the following:

A. PZ operation is closely linked to water treatment plant output.

B. Available existing higher PZ storage or pumping capacity exceeds standard ESP sizing requirements. Combinations of excess pumping and above-zone storage available via flow control valves(s) should also be considered.

C. In-zone storage is not practical because of PZ size or lack of suitable storage sites.

D. Service is provided to or from areas with hydraulic limitations (e.g., PZs with "subzone" conditions approximating two separate zones, or where adequate storage may not be available due to operating needs or reservoir elevation).

E. Onsite emergency power supply or dual power feed.

F. Use of a coincidence factor in sizing a PP.

G. PPs with P:D ratios less than 1.5.

H. Steel tank width to water depth ratio less than 1.5.

I. Fire fighting storage in small reservoirs or unusual fire agency requirements.

J. Existing S:D ratios less than 1.0 and many years of successfully achieving LOS without extraordinary operations.

Modified standards will be applied on a case-by-case basis for existing PZs when facility sizing, environmental, or other issues do not allow standard storage and/or pumping criteria to be met at a reasonable cost and to make use of existing capacities and system configurations. In these cases, modified standards may be applied. The modified standards have been established to provide a LOS and reliability similar to the standard criteria. Modified criteria provide for the use

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ENGINEERING STANDARD PRACTICE	ESP	492.2
SUBJECT: **DISTRIBUTION RESERVOIR AND PUMPING PLANT PLANNING CRITERIA**	EFFECTIVE	18 DEC 03
	SUPERSEDES	25 OCT 01

of excess out-of-zone storage available via either gravity or pumping. It is understood that the modified criteria may result in a more complex system operation, additional mechanical systems (regulators, rate control valves, large capacity PPs), greater energy consumption, and potentially more instrumentation.

2. Modified standards must be evaluated by a planning team consisting of Operations & Maintenance Department (O&M), Water Distribution Planning Division, and other O&M or Engineering and Construction Department (E&C) Divisions as appropriate. The Director of E&C shall approve modified standards.

Marilyn L. Miller
Director of Engineering and Construction

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CONTRA COSTA LAFCO

3.15 Provision of Services by Contract (Out of Agency Service)

Effective January 1, 1994, a city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from LAFCO (Gov. Code §56133). The definition of city and special district services can be found in Gov. Code §56074. In accordance with these definitions, services include the public facilities necessary to perform the service function. Requirements, procedures and exemptions are described below.

REQUIREMENTS

General Statements:

LAFCO may approve, with conditions, a request for out-of-agency service in one of two situations: 1) in response to an existing or impending threat to the health or safety of the public (inside or outside the agency's SOI), or 2) if the affected territory is within the agency's sphere of influence (SOI) and is in anticipation of a later annexation

Out of agency service requests must be filed with the Executive Officer by the affected city or district. The application shall be signed by an authorized representative of the city or district. Requests shall be made in writing with a completed LAFCO application, payment in the amount prescribed under the Commission's adopted fee schedule, appropriate environmental document, proposed service agreement, and an executed and recorded deferred annexation agreement (DAA) that includes waiver of property owner protest rights. An indemnification agreement will be required with each application. The recorded DAA shall run with the land and be binding on all future owners of the property. All requests for outside of agency service agreements are subject to the applicable provisions of CEQA.

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Requests Due to Health or Safety Emergency:

Requests due to health or safety emergencies must be accompanied by documentation from the County Environmental Health Division, pursuant to §56133 and Contra Costa LAFCO policies. The Commission shall notify any alternative service provider in accordance with §56133. Emergency situations may occur within or outside the agency's SOI.

Requests in Anticipation of an Annexation:

Out of agency service applications must be accompanied by a change of organization (e.g., annexation) or reorganization application, including an approved tax sharing agreement. This dual application requirement may be waived in certain situations by the Commission in accordance with LAFCO policies (Section 2.1, subsection J).

The proponent will be charged the applicable change of organization fee prior to LAFCO's consideration of the out of agency service agreement, plus a 30% surcharge fee in conjunction with the out of agency service proposal. For applications where the dual application requirement is waived, the applicant will be charged the standard out of agency processing fee.

PROCEDURES

Review of Request: The Executive Officer shall review and determine within 30 days of receipt whether the request to authorize out of agency service is complete. If a request is deemed incomplete, the Executive Officer shall immediately notify the applicant and identify the information needed to accept the request for filing.

Once a request is deemed complete, the Executive Officer will prepare a written report with a recommendation. The Executive Officer will present his or her report and recommendation at a public hearing for Commission consideration. The public hearing will be scheduled for the next regular meeting of the Commission for which adequate notice can be given but no later than 90 days from the date the request is deemed complete. The Executive Officer's written report will be made available to the public for review prior to the scheduled hearing and include an evaluation of the factors in accordance with the Government Code and LAFCO policies.

LAFCO may approve the request for out of agency service with or without conditions, or may deny the request. Unless otherwise specified in the LAFCO resolution of approval, out of agency service is allowed for the subject application only, and any future extension or expansion of service is subject to LAFCO's approval.

If the request to provide out of agency service is approved or denied, the applicant may request reconsideration within 30 days citing the reasons for reconsideration.

Consideration of Emergency Request: The Commission authorizes the Executive Officer, in consultation with the Chair or Vice Chair, to approve an emergency request (e.g., failing well or septic system) for out of agency service, as documented by the County Environmental Health Division. The Executive Officer shall report to the Commission on his or her administrative approval of any emergency out of agency service agreements at the next regularly scheduled LAFCO meeting. Such administrative approval can be made in accordance with LAFCO policies (Section 2.1, subsection J).

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EXEMPTIONS

LAFCO authority over out-of-agency services does not apply to the following:

1. Contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

2. Contracts for the transfer of non-potable or non-treated water; and

3. Contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservations purposes, or directly support agricultural industries. However, prior to extending surplus water that will support or induce development, the agency must receive written approval from LAFCO.

4. An extended service that a city or district was providing on or before January 1, 2001.

5. A local publicly owned electric utility providing electric services, which do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility outside of the utility's jurisdictional boundary.

PERMIT 10478 TIME EXTENSION PROJECT
DRAFT ENVIRONMENTAL IMPACT REPORT

September 2013



EAST BAY MUNICIPAL UTILITY DISTRICT

Prepared by East Bay Municipal Utility District
with assistance from ICF International

PERMIT 10478 TIME EXTENSION PROJECT
DRAFT ENVIRONMENTAL IMPACT REPORT

STATE CLEARINGHOUSE NO. 2008112043

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September 2013

PREPARED BY

EAST BAY MUNICIPAL UTILITY DISTRICT

WITH ASSISTANCE FROM

ICF INTERNATIONAL

Table 1-3. Mokelumne River Municipal Water Right Entitlements

Water Right	Maximum Direct Diversion Rate to Service Area	Maximum Annual Collection to Storage	Maximum Annual Beneficial use (Direct Diversion plus Withdrawal from Storage) for EBMUD use
Pardee			
1924 Application 4228 1981 License 11109[a]	200 MGD Year-round	209,950 AF October 1 through July 15	224,037 AF Direct diversion: year round Withdrawal from storage: year-round
Pardee/Camanche			
1949 Application 13156 1956 Permit 10478	125 MGD December 1 through July 1	353,000 AF December 1 through July 1	140,000 AF[b] Direct diversion: December 1 through July 1 Withdrawal from storage: year-round
Total	325 MGD	562,950 AF	364,037 AF

[a] Total amount to be taken from the source (the river) under License 11109 shall not exceed 316,250 AF/year.
[b] Total amount to be diverted from the watershed by direct diversion or withdrawal from storage under Permit 10478 (and any subsequent license), as restricted by the 1959 Release of Priority, shall not exceed the equivalent of the average flow of 194 cfs (or 140,000 AF/year).
AF = acre-feet.

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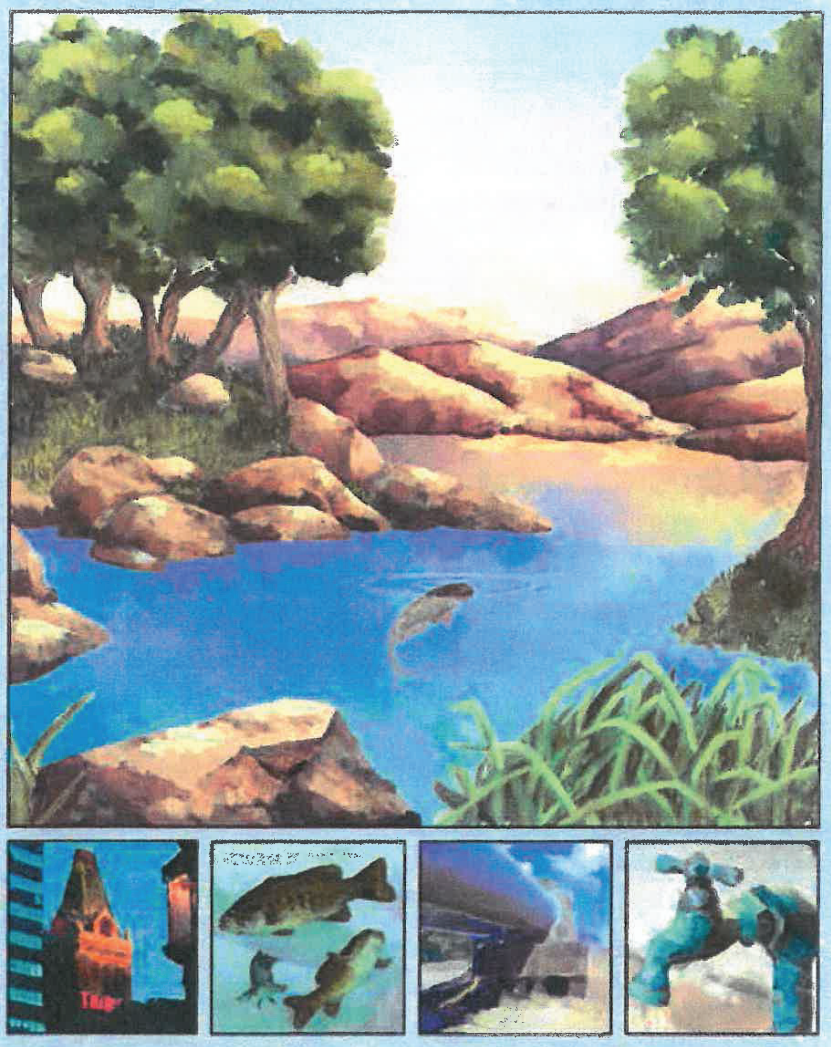
1.3.4.1 Historical Maximum Use under Permit 10478

This section summarizes EBMUD's maximum historical use under Permit 10478 and is provided for informational purposes.

Under Permit 10478, EBMUD has diverted from the watershed at the following maximum rates and quantities, over the time periods noted:

- 192 cfs (124 MGD) from June 5 through July 10, 2008, (average over 36 days) to assist in meeting demand and to refill standby storage in the service area depleted by drought.
- 191 cfs (123 MGD) from May 11 through May 17, 2000, (average over 7 days) to assist in meeting demand and to test Mokelumne Aqueducts after installation of pressure transient equipment on Mokelumne Aqueduct No. 1.
- 162 cfs (105 MGD) from May 30 through July 21, 1997, (average over 53 days) to assist in meeting demand and to refill standby storage in the service area depleted by extended outage of the Mokelumne Aqueducts because of a high turbidity event that required shutting down the Mokelumne Aqueducts and relying on local storage to meet water demands.
- License 11109 includes both daily and annual use limitations. In a single year, the maximum amount of Permit 10478 water used by EBMUD in excess of the quantities allowed to be used daily under License 11109 is 36,992 acre-feet. This occurred in calendar year 1997. The maximum amount of Permit 10478 water used by EBMUD in excess of the quantities allowed annually under License 11109 is 17,826 acre-feet during calendar year 1976.

EAST BAY MUNICIPAL UTILITY DISTRICT



URBAN WATER MANAGEMENT PLAN
2015

1.2 THE URBAN WATER MANAGEMENT PLANNING ACT

The East Bay Municipal Utility District (EBMUD) sponsored the Urban Water Management Planning Act (Act) that became part of the California Water Code with the passage of Assembly Bill 797 in 1983. As stated in the Act, water is a limited and renewable resource subject to ever-increasing demands. Section 10610.4 of the Act states that "urban water suppliers shall be required to develop water management plans to actively pursue the efficient use of available supplies." It is the state's policy to achieve conservation and efficient use of urban water supplies to protect both the people of the state and their water resources. The Act provides water utilities with an approach to assess their water resource needs and supplies by requiring that each urban water supplier providing more than 3,000 acre-feet of municipal water, or supplying water directly or indirectly to more than 3,000 customers annually, shall prepare, update, and adopt an UWMP at least once every five years. Since 1983, the Act has been amended by various Assembly and Senate bills (see Table 1-1) which expanded the issues that are to be addressed in the UWMP. Relevant regulatory and statutory changes to the requirements for urban water management plans enacted since 2010 include:

- AB 2409, Nestande, 2010 (Water shortage contingency analysis),
- AB 2067, Weber, 2014 (Water demand management measures),
- SB 1420, Wolk, 2014 (Distribution system losses),
- SB 1036, Pavley, 2014 (Energy use), and
- California Code of Regulations, Title 23, Sec. 5003(c)(1)(c) (Reduced reliance on the Delta).

Appendix A contains the text of the Acts and its amendments.

TABLE 1-1 URBAN WATER MANAGEMENT PLANNING ACT & AMENDMENTS

BILL	INTRODUCED BY	CHAPTERED
AB 2661	KLEHS	1990
AB 11X	FILANTE	1991
AB 1869	SPEIER	1991
AB 892	FRAZEE	1993
SB 1017	MCCORQUODALE	1994
AB 2853	CORTESE	1994
AB 1845	CORTESE	1995
SB 1011	POLANCO	1995
AB 2552	BATES	2000
SB 553	KELLEY	2000
SB 610	COSTA	2001
AB 901	DAUCHER	2001
SB 672	MACHADO	2001
SB 1348	BRULTE	2002
SB 1384	COSTA	2002
SB 1518	TORLAKSON	2002
AB 105	WIGGINS	2004
SB 318	ALPERT	2004
SB 1087	FLOREZ	2005
AB 1420	LAIRD	2007
SBx7-7	STEINBERG	2009
AB 2409	NESTANDE	2010
AB 2067	WEBER	2014
SB 1420	WOLK	2014
AS 1036	PAVLEY	2014

1.2.1 EBMUD'S URBAN WATER MANAGEMENT PLAN

On November 26, 1985, after a period of public review and a public hearing, EBMUD adopted its first UWMP. Since 1985, the plan has been updated and adopted by EBMUD's Board of Directors every five years. The 2015 UWMP is an update of the UWMP 2010. It is designed to satisfy the requirements of the Urban Water Management Planning Act and provide the public with a report on EBMUD's progress in implementing conservation and water recycling programs, along with efforts to secure supplemental water supply sources. The 2015 UWMP also includes data on EBMUD's progress on complying with SBx7-7, the state law mandating that urban water agencies reduce water use so as to achieve a statewide reduction of 20% by the year 2020. EBMUD prepared UWMP 2015 with the intent of complying with all current applicable regulations and statutes. In adopting its UWMP, the District commits to managing water demand and efficiently using its water supplies to protect both its customers and its water and natural resources, and commits to making every effort to ensure the appropriate level of water service reliability to meet water demands during normal, dry, and multiple dry years.

1.2.2 PUBLIC PARTICIPATION AND ADOPTION OF PLAN

EBMUD has actively encouraged the involvement of a diverse sector of the population in its urban water management planning efforts throughout the update process.

EBMUD sent a notice of intent to update its UWMP to all cities and counties within its service area, local and neighboring water districts and agencies, and other relevant groups and organizations on January 28, 2016, more than 60 days prior to the public hearing. EBMUD also posted the notice of the intent to update on its website.

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EBMUD's Draft UWMP 2015 was distributed for review and comment beginning on April 11, 2016 ending the comment period on May 11, 2016.

Notice of the public hearing and the public comment period and intent to adopt was posted in relevant newspapers on April 1 and April 8, 2016. A copy of the public notice and a list of newspapers with dates on which the notice was published are included in Appendix B. A notice of the hearing, evening public comment meeting and the public comment period was also mailed to all parties included in EBMUD's UWMP 2015 mailing list on April 8, 2016, and was posted on EBMUD's website on April 11, 2016. EBMUD held a public comment meeting on the Draft UWMP 2015 on the evening of April 27, 2016 in addition to the public hearing during the Board meeting on May 10th to further provide an opportunity for the public to provide input.

The UWMP 2015 was modified, where appropriate, to incorporate comments received from the public, interested organizations, and other agencies. Appendix C contains a summary of the comments received and EBMUD's responses to those comments.

At its meeting on June 28, 2016, the EBMUD Board of Directors adopted UWMP 2015 and the 2015 Water Shortage Contingency Plan. A copy of the adoption resolution is included in Appendix D. By July 1, the adopted UWMP 2015 was submitted electronically to the California Department of Water Resources (DWR) and by July 22nd, copies of the UWMP 2015 were sent to the California State Library, and cities and counties within EBMUD's service area and posted on EBMUD's website.

1.3 THE EAST BAY MUNICIPAL UTILITY DISTRICT

1.3.1 FORMATION

The East Bay Municipal Utility District, a public utility, was formed under the Municipal Utility District (MUD) Act, passed by the California Legislature in 1921. The MUD Act permits formation of multi-purpose government agencies to provide public services on a regional basis. In accordance with the MUD Act's provisions, voters in the San Francisco East Bay Area created EBMUD in 1923 to provide water service. In 1929, upon completion of construction of Pardee Dam and the first Mokelumne Aqueducts, EBMUD began delivering water from the Sierra Nevada Mountains to customers in the East Bay.

The MUD Act was amended in 1941 to enable formation of special districts. In 1944, voters in six East Bay cities elected to form EBMUD's Special District No. 1 to treat wastewater from their jurisdictions prior to its release into the San Francisco Bay. Wastewater treatment for those cities began in 1951 and later expanded to include the Stege Sanitary District, which includes Kensington, El Cerrito, and parts of Richmond.

1.3.2 BOARD OF DIRECTORS

EBMUD is governed by a seven-member Board of Directors, publicly elected to four-year terms from wards within EBMUD's service area. The Board determines overall policies, which are implemented under the direction of the General Manager. Activities of EBMUD are guided by the following mission statement: "To manage the natural resources with which the District is entrusted; to provide reliable, high quality water and wastewater services at fair and reasonable rates for the people of the East Bay; and to preserve and protect the environment for future generations."

1.3.3 SERVICE AREA

EBMUD supplies water and provides wastewater treatment for a large part of Alameda and Contra Costa counties. Based on 2010 census data and Association of Bay Area Government's (ABAG) Projections 2013, approximately 1.4 million people are currently served by EBMUD's water system in a 332-square-mile area extending from Crockett on the north, southward to San Lorenzo and portions of Hayward (encompassing the major cities of Oakland and Berkeley), eastward from San Francisco Bay to Walnut Creek, and south through the San Ramon Valley (including Alamo, Danville, and San Ramon). The wastewater system serves approximately 685,000 people in an 88-square-mile area of Alameda and Contra Costa counties along the Bay's east shore, extending from Richmond in the north southward to San Leandro. EBMUD water customers include residential, industrial, commercial, institutional and irrigation water users.

1.3.4 BOUNDARY

The EBMUD water service area encompasses incorporated and unincorporated areas within Alameda and Contra Costa counties. The current service area, illustrated in Figure 1-1, is the area that was established during EBMUD's formation, as modified by annexation, detachments, or other changes of organization thereafter. The Ultimate Service Boundary is a boundary established by EBMUD to define its limit of future annexation for extension of water service.

The Local Agency Formation Commissions (LAFCOs) of Alameda and Contra Costa counties have established a Sphere of Influence for EBMUD which is illustrated in Figure 1-1 and defines the area that can be served by EBMUD, as defined by the LAFCOs.

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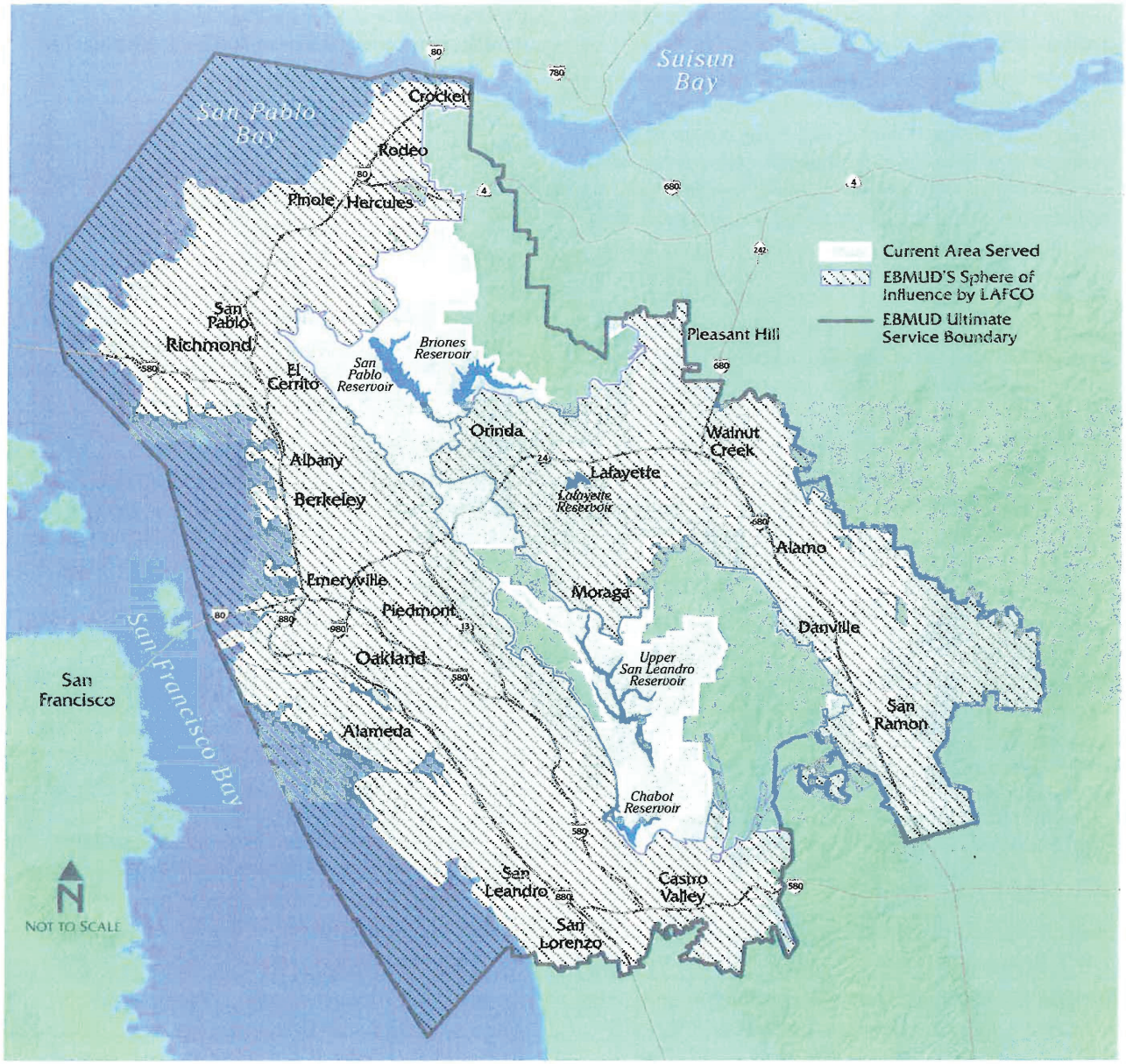
FIGURE 1-1 EBMUD SERVICE BOUNDARY



1.3.5 CLIMATE & TOPOGRAPHY

Within the EBMUD service area there are significant differences in geography, climate, and land use. These characteristics are important as they influence how water is used in various portions of the service area. These characteristics are also factors considered in water demand projections.

Geographically, the EBMUD service area is divided by the Oakland/Berkeley Hills that rise to about 1,900 feet above sea level. The area west of the Oakland/Berkeley Hills (referred to as west of hills, or WOH) is characterized by a plain that extends from Richmond to Hayward and from the shore of the Bay inland. The terrain east of the Oakland/Berkeley Hills (referred to as east of hills, or EOH) is characterized by rolling hills as the land descends to about 100 feet above sea level near Walnut Creek. West of hills areas border San Francisco Bay and experience a moderate climate that is tempered by ocean and Bay waters. In contrast, east of hills areas, such as Lafayette, Walnut Creek, and the San Ramon Valley, experience greater extremes in climate and are cooler in the winter and hotter in the summer. Average historical climate characteristics for east of hills and west of hills portions of the EBMUD service area are illustrated in Table 1-2.

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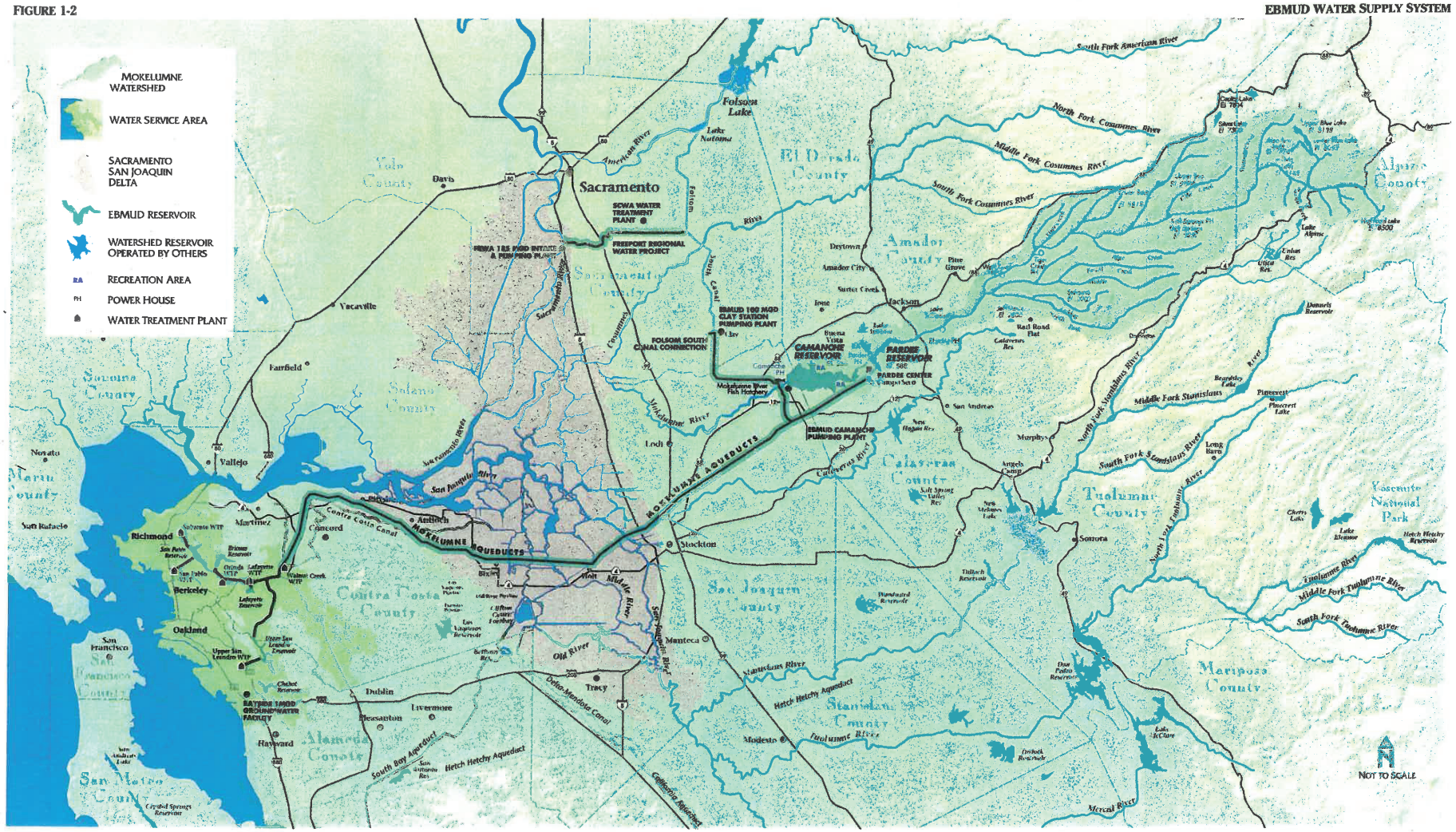
FIGURE 1-2

EBMUD WATER SUPPLY SYSTEM



EBMUD
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3.3.3 WATER SUPPLY AVAILABILITY & DEFICIENCY POLICY

EBMUD's Water Supply Availability and Deficiency Policy 9.03 (Appendix F) describes its process for evaluating the adequacy of its water supplies each year.

Under the Policy, EBMUD's Board of Directors receives a preliminary assessment by March 1 of each year evaluating the adequacy of that year's water supply. Following this preliminary assessment, the Board of Directors adopts a final Water Supply Availability and Deficiency Report before May 1, which updates the water supply projections based on the April 1st snow survey by DWR. These reports inform decisions by EBMUD's Board of Directors regarding whether to declare a water shortage emergency and implement a drought management program, institute mandatory water use reductions, and/or obtain/pursue supplemental supplies. The preliminary report can also be used as the basis for requesting CVP water that year if EBMUD's water supply is projected to be deficient.

3.4 DROUGHT MANAGEMENT PROGRAM

If water supplies are severely depleted EBMUD's Board of Directors may declare a water shortage emergency and implement the DMP, which is designed to allow EBMUD to minimize drought impacts on its customers while continuing to meet stream flow release requirements and obligations to downstream Mokelumne River water users. The Board may also implement the DMP in the absence of a declaration of water shortage emergency if the supplies are moderately depleted or the State mandates water use restrictions. The DMP gui ded EBMUD in successfully managing water demand during mandatory and voluntary rationing periods in calendar years 1976-1978, 1987-1994, 2007-2010, and 2014-2015 when supplies were limited. Table 3-1 shows the rationing levels that EBMUD has imposed, starting with the 1976 drought period.

3.4.1 TIMELINE & PROCESS

EBMUD begins drought preparations early in the calendar year when a water shortage appears possible. Figure 3-1 shows the time of a typical dry year, marking when EBMUD receives information and makes key decisions about that year's water supply. As illustrated, EBMUD decides on drought actions involving rationing levels, state and federal mandates, and the acquisition of supplemental supplies based on projections of end of season storage. Often EBMUD must make these decisions as hydrologic conditions continue to evolve.

EBMUD's Operations Department monitors water supply conditions and projected runoff into EBMUD reservoirs. Beginning in January, the Department assesses the potential for a shortage and convenes EBMUD's Drought Committee. This committee includes senior staff representing key functions that are affected and involved in customer response to drought.

As discussed in Section 3.3.2, the final Water Supply Availability and Deficiency Report is prepared by May 1 of each year. This report uses DWR's April 1st snow survey and runoff projections to estimate the water supply storage for the end of the water year; this amount determines the need for requiring customers to change their water use. As discussed below, the Board may declare one of the four stages of drought and activate the DMP depending on the projected end of year water supply. The adopted stage of drought will help establish the need for dry year supplemental supplies and customer rationing.

Depending on the projected level of storage, the Board may also decide to request CVP supplies from USBR and/or secure water transfers. Section 3.3.2 above discusses EBMUD's LTRC for CVP supplies and how these supplies factor into drought planning. EBMUD may change its CVP request and ask for additional CVP supplies up to the maximum quantity allocated by USBR or cancel previous requests as needed, depending on conditions.

Throughout the year, EBMUD continues to monitor the water supply and the impacts on demand of any voluntary or mandatory rationing policy. As warranted by the water supply status and the DMP guidelines, the Drought Committee initi-

TABLE 3-1 HISTORIC RATIONING LEVELS

DATE	RATIONING LEVEL
05/25/1976	VOLUNTARY CONSERVATION, NO LEVEL SET
02/08/1977	25% MANDATORY
04/26/1977	35% MANDATORY
01/24/1978	VOLUNTARY CONSERVATION, NO LEVEL SET
04/14/1987	12% VOLUNTARY
05/09/1989	25% RATIONING
09/12/1989	15% VOLUNTARY
02/26/1991	15% MANDATORY
04/09/1991	15% MANDATORY
04/14/1992	15% MANDATORY
03/09/1993	10% VOLUNTARY
04/26/1994	VOLUNTARY CONSERVATION, NO LEVEL SET
05/01/1994	15% VOLUNTARY
04/24/2007	15% VOLUNTARY
05/13/2008	15% MANDATORY
05/12/2009	10% VOLUNTARY
02/11/2014	10% VOLUNTARY
04/22/2014	10% VOLUNTARY
12/09/2014	15% VOLUNTARY
04/14/2015	20% MANDATORY

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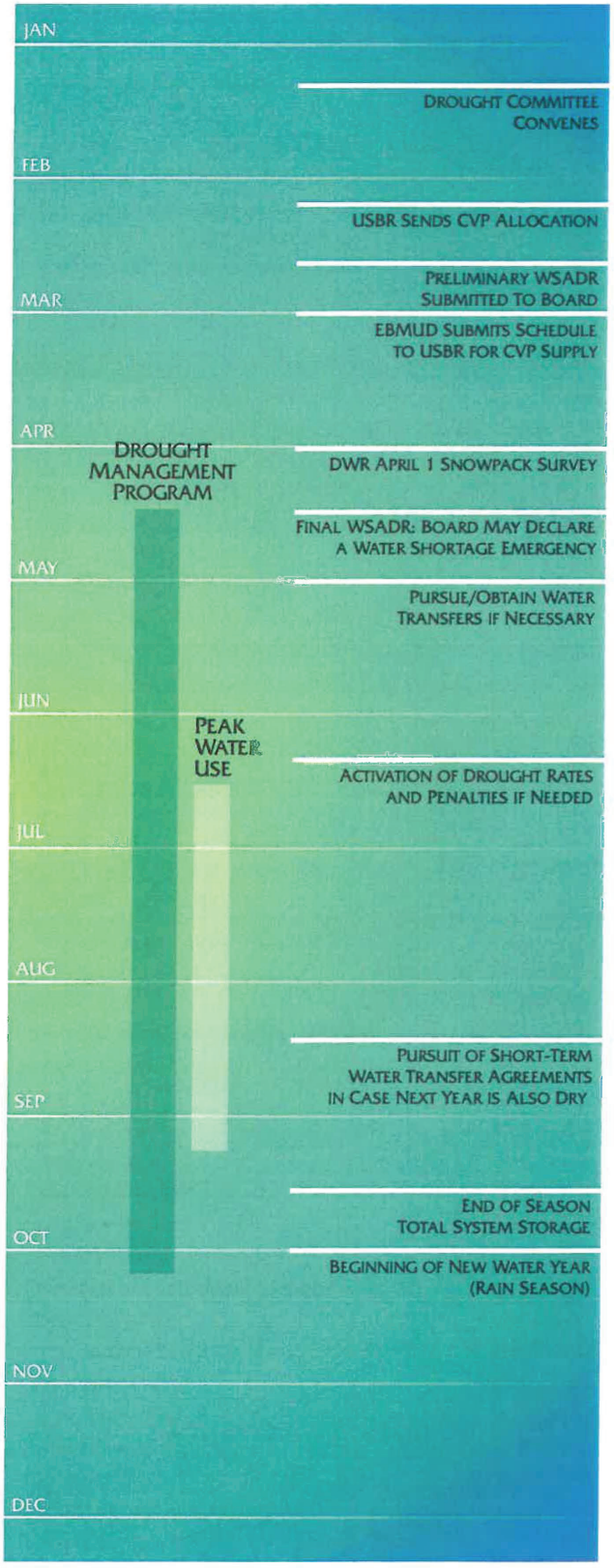
FIGURE 3-1 TYPICAL DRY YEAR DECISION MAKING TIMELINE



ates response activities and sets timelines for these activities. The Drought Committee manages program implementation and monitors and reports on activities and results.

In multi- year droughts, EBMUD may begin planning in the fall for the next year's water supply needs in anticipation of continuing dry year conditions. Given the level of uncertainty regarding the availability of water transfers and the length of time required to secure permitting and regulatory approvals, EBMUD must begin planning to secure water transfers early if EBMUD anticipates there may be a need the next year. This includes discussions with potential sellers and preparation of necessary environmental reviews that would be required to implement the water transfer.

3.4.2 DROUGHT MANAGEMENT PROGRAM GUIDELINES

EBMUD's DMP guidelines have been revised significantly since the 2010 UWMP. The new DMP guidelines incorporate new EBMUD measures such as a staged system of drought rates, new ordinances and penalties, and a supersaver recognition program. The DMP guidelines also reflect EBMUD's experiences in 2014 and 2015 operating the Freeport facilities and taking CVP and transfer water for the first time.

The District also updated the guidelines in response to state drought actions in 2015 and 2016. During the drought, the SWRCB required urban water agencies to achieve mandatory water use reduction goals to address statewide water shortages (as discussed in Section 3.5). The SWRCB's actions were driven by statewide conditions, not local conditions within each urban water agency. The SWRCB could impose similar requirements during future droughts.

The DMP guidelines offer two scenarios depending on whether the drought declaration is linked to local conditions, as measured by total system storage (TSS), or to a state mandate, such as the mandatory water use reductions set by the SWRCB in 2015. Historically, EBMUD's drought declarations have been based on local conditions.

Under the "TSS Scenario," EBMUD declares different drought stages based upon projected end-of-September total system storage as shown in Figure 3-2. Stage zero corresponds to normal water year conditions, and Stages one through four reflect increasingly severe drought conditions corresponding to reduced total system storage. Each stage is associated with recommendations for the quantities of CVP and additional dry year water supply that could be obtained in combination with the level of customer demand reduction that may be needed. As the projected end of season TSS decreases, the DMP Guidelines call for higher levels of customer demand reduction, and dry year supplemental supplies.

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FIGURE 3-2 **DROUGHT MANAGEMENT PROGRAM GUIDELINES**

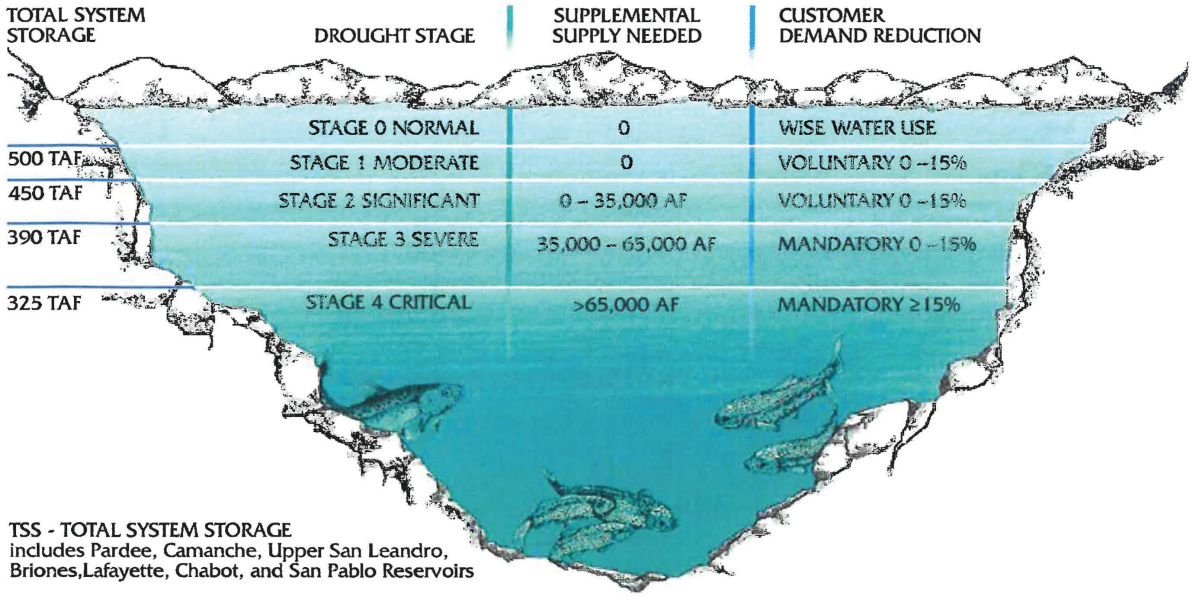

Table 3-2 shows the link between the drought stages and rates, penalties, and regulations in effect. Beginning in Stage 2, EBMUD may apply a drought surcharge to help recover costs, as discussed in more detail in Section 3.7. In Stages 3 and 4, the Excessive Use Penalty Ordinance and Section 28 of EBMUD's *Regulations Governing Water Service* may come into effect.

The projected total system storage levels that trigger each stage have been updated from the previous guidelines to ensure that EBMUD could meet customer demands, that there would be adequate flows for fisheries and downstream senior water rights, and that EBMUD will have water available in the following year(s) if the drought continues. Staff conducted extensive hydrologic modeling to confirm that the new guidelines would meet these goals under a variety of hydrologic conditions.

It is possible that the water use reductions required by state mandate could exceed water use reductions that would otherwise be called for based on the TSS. In the State Mandate Scenario, the drought stage and associated response actions would be guided by Table 3-3, which establishes stages based on state mandated customer

TABLE 3-2 DROUGHT MANAGEMENT PROGRAM GUIDELINES – TSS SCENARIO

STAGE	RATE/PENALTY IMPACTS	REGULATIONS IN EFFECT OR POTENTIALLY ENACTED
0 NORMAL	NORMAL RATES	SECTION 29
1 MODERATE	NORMAL RATES	SECTION 29
2 SIGNIFICANT	NORMAL RATES DROUGHT SURCHARGE	SECTION 29
3 SEVERE	NORMAL RATES DROUGHT SURCHARGE EXCESSIVE USE PENALTY	SECTION 28 SECTION 29 EXCESSIVE USE ORDINANCE
4 CRITICAL	NORMAL RATES DROUGHT SURCHARGE EXCESSIVE USE PENALTY	SECTION 28 SECTION 29 EXCESSIVE USE ORDINANCE

Notes:
a Drought Surcharges will reflect the most recently adopted Proposition 218 rates.
b Under Stages 3 or 4, the Board would declare a water shortage emergency and enact Section 28 to implement water conservation measures. Penalties under the Excessive Use Ordinace would apply.

TABLE 3-3 DROUGHT MANAGEMENT PROGRAM GUIDELINES – STATE MANDATE SCENARIO

STAGE	STATE MANDATED CUSTOMER DEMAND REDUCTION	RATE IMPACTS	REGULATIONS IN EFFECT OR POTENTIALLY ENACTED
0 OR 1	≤10%	NORMAL RATES	SECTION 29
2	10 – 15%	NORMAL RATES DROUGHT SURCHARGE	SECTION 28 SECTION 29
3	15 – 20%	NORMAL RATES DROUGHT SURCHARGE	SECTION 28 SECTION 29
4	≥20%	NORMAL RATES DROUGHT SURCHARGE	SECTION 28 SECTION 29

Notes:
a Drought Surcharges will reflect the most recently adopted Proposition 218 rates.
b The Board can enact Section 28 to implement conservation measures to achieve desired customer demand reductions.

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TABLE 3-4 DROUGHT MANAGEMENT PROGRAM ELEMENTS BY STAGE FOR TSS SCENARIO

DROUGHT STAGE	DROUGHT PROGRAM ELEMENTS CONSIDERED
STAGE 1 MODERATE VOLUNTARY 0 – 15% RATIONING	Establish voluntary water use reduction goals and determine use restrictions
	Initiate a public information campaign to explain the water supply situation and customer responsibilities
	Outreach and education may include EBMUD's website, social media, media outreach, advertising, workshops and events, bill inserts and bill messaging
	Initiate community water waste hotline and online water waste reporting
	Issue up to 50,000 Single Family Residential (SFR) home water reports
	Provide commercial and residential landscape water budgets to up to 5,000 accounts
	Provide conservation audits and WaterSmart Home Survey Kits
	Issue up to 5,000 indoor plumbing fixture and appliance rebates
	Issue up to 5,000 outdoor landscape & irrigation rebates
	Conduct water audits
	Provide up to 5,000 free water saving devices
	Expand Water Loss Control Program (e.g., acoustic loggers, leak detection crews)
STAGE 2 SIGNIFICANT VOLUNTARY 0 – 15% RATIONING	IN ADDITION TO ELEMENTS OF STAGE 1:
	Apply stage 2 drought surcharge
	Continued outreach and education
	Provide online EBMUD Store ordering (restaurant and hotel tent cards, stickers)
	Increase SFR home reports to 75,000 households
	Increase commercial and residential landscape water budgets to 25,000 accounts
	Issue up to 10,000 free water savings devices
STAGE 3 SEVERE MANDATORY 0 – 15% RATIONING	IN ADDITION TO ELEMENTS IN STAGE 2:
	Apply Stage 3 drought surcharge
	Advanced media outreach / response
	Advanced customer outreach & education
	Consider water saving campaigns, challenges
	Consider supplementing education and outreach with website tools and information; outdoor, radio, publications, and online advertising; drought theaters or other education for children; contests and pledges; promotional items, signs, drought newsletters, customer outdial messages, postcard mailings, etc.
	Institute excessive use penalty for SFR customer with use > 60 ccf/month
	Initiate Supersaver Recognition Program
	Increase SFR home reports to 100,000 households
	Increase commercial and residential landscape water budgets to 50,000 accounts
	Issue up to 7,000 indoor plumbing fixture and appliance rebates
	Issue up to 8,000 outdoor landscape & irrigation rebates
	Issue up to 15,000 free water savings devices
	Provide field enforcement of regulations and water use restrictions
STAGE 4 CRITICAL MANDATORY ≥15% RATIONING	IN ADDITION TO ELEMENTS IN STAGE 3:
	Apply Stage 4 drought surcharge
	Institute excessive use penalty for SFR customer with use > 40 ccf/month
	Increase SFR home reports to 325,000 households
	Increase commercial and residential landscape water budgets to 150,000 accounts
	Issue up to 20,000 free water savings devices

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demand reduction goals. EBMUD's Board of Directors can enact the provisions of Section 28 of its *Regulations Governing Water Service* during Stage 2, 3, and 4 droughts. During these stages of drought the Board can also implement drought surcharges up to the most recently adopted Proposition 218 rates. Under the State Mandate scenario, it is assumed that EBMUD is not in a declared water shortage emergency, and therefore the excessive use penalty would not be in effect.

The drought stages will also influence EBMUD's actions to achieve voluntary water use reductions or mandatory rationing. Table 3-4 shows the types of programs and actions that EBMUD might undertake at each stage of drought for the TSS scenario. For the State Mandate scenario, EBMUD may implement a subset of the elements listed in the table, and there may be additional specific requirements mandated by the State.

3.4.3 DEMAND REDUCTION METHODS

Chapter 7 provides information on EBMUD's water conservation program. During water shortage emergencies, many of the programs and projects in that portfolio are expanded to reduce demand. Activation of a Drought Communication Plan, implementation of drought rates and penalties, and application of water use restrictions also help EBMUD reduce demand during declared droughts.

Drought Communication Plan

During a water shortage emergency, EBMUD implements a public education program to inform the public and uses various methods and tactics to promote water use reductions and improved efficiencies. The campaign explains the potential impacts of a water shortage, the water supply status, methods to reduce water consumption, potential excess use penalties, EBMUD actions, and customer responsibilities. The campaign typically highlights specific EBMUD programs and services to help customers to reduce their water use.

At the onset of a water shortage emergency, EBMUD develops a detailed Drought Communication Plan (DCP) to provide information to customers, public officials, and other stakeholders. The specific details and messages are tailored to the particular drought situation. Components of an effective DCP include a set of well-defined, focused key messages and an action plan detailing all communication activities. The DCP outlines general and targeted communication methods; general communication methods focus on creating a strong education campaign with broad reach, while targeted communication methods focus on particular customers or sectors. General communication methods include media outreach, creating outdoor and other advertising, expanding stakeholder outreach, providing information on the web, producing bill inserts and messages, sending direct mail to public officials, briefing key community leaders and officials, and providing information through the customer contact center. Targeted communication methods can include direct contact with high-volume water users, proactively offering more support to customers through conservation training and tools, and increasing EBMUD's interactions with customers and customer engagement about their water use.

Following are additional details on some of the general and targeted communications methods that EBMUD has employed in previous droughts.

- Advertising campaigns throughout the EBMUD service area broadcast conservation messages on radio and cable television, local newspapers and magazines, bus exteriors, transit shelters and EBMUD billboards. EBMUD has also participated in regional advertising campaigns on radio and television when the messages were consistent with EBMUD's and donated billboard space for the statewide campaign. Campaign messages included appreciation for customer conservation, continued encouragement to save water by fixing leaks and installing efficient outdoor landscape irrigation, and using online tools to understand and curb water use.
- EBMUD invests in resources and tools to support customer contacts and customer billing functions to ensure a continuous level of quality customer service during a water shortage. Drought periods increase the volume of calls to EBMUD's customer Contact Center, Field Services, Water Conservation, Customer Services Support, and Public Affairs divisions. EBMUD ensures adequate staffing to respond to customers' questions and requests for assistance.
- EBMUD's website has become an increasingly important tool for disseminating information to customers and the media during drought periods and EBMUD's social media presence provides another tool to communicate to customers about drought.
- EBMUD initiates significantly more direct customer contacts and responds to significantly more inquiries from customers. Water conservation and field services staff distribute drought messages and water savings devices, encourage water savings, assist customers in changing their water use, inform customers about voluntary program requirements, and enforce mandatory requirements.
- EBMUD has used "out-dial" calls and direct mail to alert customers to the start of the drought program and to request curtailed water use during especially prolonged hot weather.

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CHAPTER 4 – WATER DEMAND

In this chapter EBMUD assesses its long-term demand projections and analyzes the sufficiency of its water supply for meeting those demands. For the 2015 UWMP, EBMUD has developed a robust supply-demand assessment, which includes the analysis of different supply availability scenarios, to assist in long-term planning efforts. It is important to note that with the implementation of the Drought Management Program during the multi-year drought, and with the residual effects of the recent economic recession, EBMUD's service area is experiencing demand levels that are significantly below average. It is anticipated that, once the drought has ended, demands will rebound and return to pre-drought and pre-recession levels.

4.1 PAST & CURRENT DEMAND

Figure 4-1 shows historic water use (including metered and unmetered demands) within EBMUD's service area along with the number of customer accounts. For the purposes of the UWMP 2015, demand is defined as total system input (i.e., water production). While the number of accounts has increased steadily since 1970, the average daily water demand has not increased correspondingly; outside of droughts, demand remains relatively stable. Water demands have dropped significantly due to rationing during drought periods, as in the years 1976-1977, 1987-1994, 2007-2011, and most recently in the 2014-2015 drought.

Several factors contributed to keeping the overall water demand from rising as might otherwise be anticipated, including:

- EBMUD's water recycling and conservation programs (discussed in more detail in Chapters 6 and 7, respectively);
- Droughts and customer rationing;
- Changes in customer usage patterns or changes in customer class (i.e., a reduction in industrial and petroleum accounts with increases in single and multi-family residential accounts); and
- Legislative changes, including new plumbing efficiency standards, CALGreen model water efficiency landscape ordinances, and the 1992 and 2005 Federal Energy Policy Act.

In 2014 and 2015 demand was lower by 20% and 28%, respectively, compared to 2005-2007. This was attributed to the multi-year drought affecting most of California and lingering economic effects of the great recession. EBMUD's Board of Directors imposed increasing levels of rationing and water use restrictions in order to preserve limited potable water supplies and meet state mandates (see Chapter 3 for more information).

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FIGURE 4-1 **EBMUD WATER ACCOUNTS AND TOTAL DEMAND**

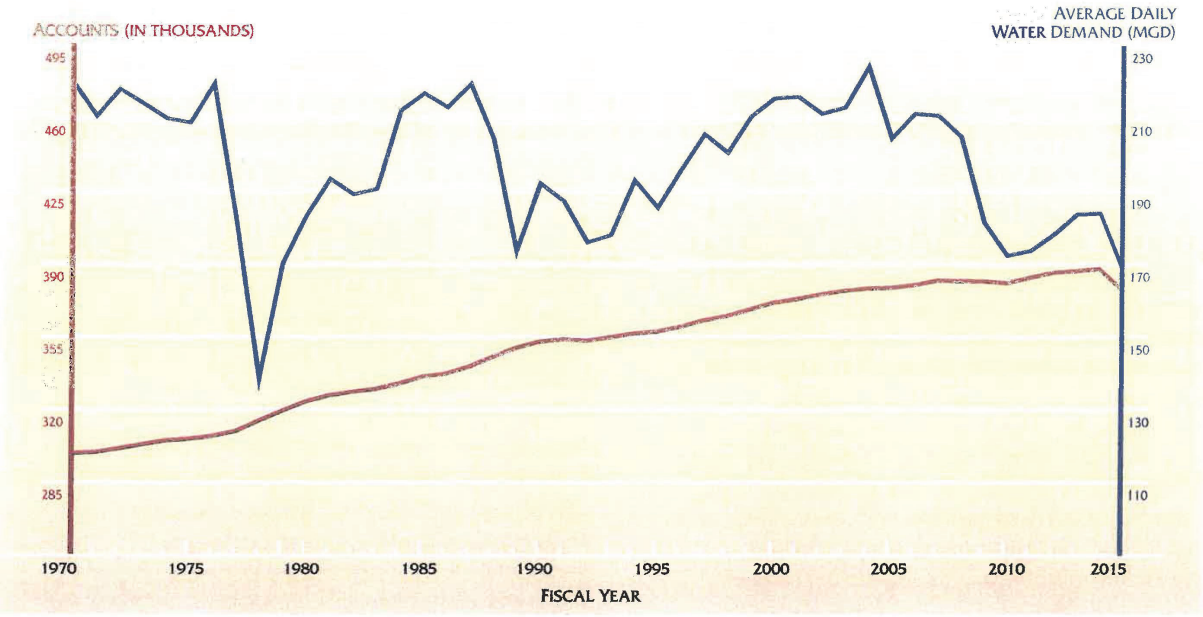
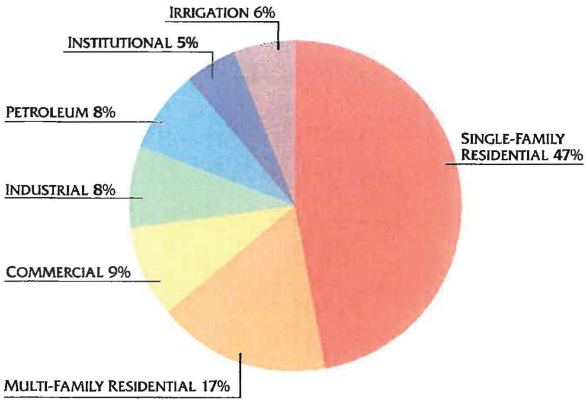


FIGURE 4-2 WATER USE BY CUSTOMER CATEGORY



NOTE:
Based on Calendar Year 1975-2014 metered consumption data.

Different customer categories exhibit different water use trends. Figure 4-2 shows how EBMUD's total metered water consumption is distributed among different customer categories. The single-family residential category has the largest consumption, followed by multi-family residential, commercial, industrial, petroleum, dedicated irrigation accounts, and institutional. Historical water use and number of accounts from 1975 to 2014 for each EBMUD customer class are shown in Figure 4-3. Note that these figures only include water from EBMUD's potable system and not recycled water. Expanded use of recycled water has led to decline in potable demand in some categories, most notably for the petroleum and irrigation customer categories. Water demand for the industrial and petroleum categories has also declined as a result of redevelopment into other customer categories.

Water use varies seasonally, as shown in Figure 4-4 which shows the average annual daily winter and summer time demands. Typically more water is used during the summer than during the winter, in particular for outdoor irrigation. Industrial water use can also vary seasonally; for example, cooling systems may require more water during warm summer months.

As discussed in Section 1.3.5, EBMUD's service area can be roughly divided into two significantly different climate zones, West-of-Hills and East-of-Hills, separated by the Berkeley-Oakland hills. In the West of Hills area, climate tends to be more moderate due to the marine influence of San Francisco Bay, whereas summer temperatures in the East of Hills area can be considerably higher. Figure 4-5 shows the average annual daily water consumption for each customer category divided into East-of-Hills and West-of-Hills areas.

The effects of localized climate can also lead to variability in water use for outdoor irrigation. Figure 4-6 illustrates how single-family residential water consumption varies by region relative to the historic average. As shown in the figure, residential customers located in the East-of-Hills portion of EBMUD's service area tend to have higher water demands than customers in the West-of-Hills area; this is partially due to differences in size of irrigated area and differences in climate.

Figures 4-7 and 4-8 illustrate characteristics of residential water consumption. Figure 4-7 shows the typical breakdown of indoor water use in a single family home. Figure 4-8 shows that, in EBMUD's service area, outdoor water use (i.e., for landscape irrigation) is typically a higher fraction of total use for single-family customers than it is for multi-family residential customers. In total, outdoor water use accounts for approximately 30% of annual total water consumption for residential customers as a whole.

4.2 PROJECTED WATER DEMAND

4.2.1 DEMAND STUDY DESCRIPTION & METHODOLOGY

Typically EBMUD prepares a full demand study every ten years; the most recent version, the 2040 Demand Study, was completed in 2009. In 2014, EBMUD prepared the Mid-Cycle Demand Assessment (MCDA) in order to assess any significant effects on metered water consumption caused by the 2008-2010 drought and the economic downturn that inhibited growth in the Bay Area. EBMUD will prepare a full update of the demand study before the 2020 UWMP.

The 2040 Demand Study used a methodology based on land-use changes to forecast average annual water demands in EBMUD's service area out to 2040. It relied on the adopted general plans of the cities and counties in EBMUD's service area and on a series of meetings with local planning agencies regarding the timing and direction of future development in their respective communities. The district-wide land use analysis for the 2040 Demand Study was conducted during a period reflecting an expectation of continued economic expansion.

Land use categories included seven residential, four mixed-use (e.g., residential above commercial in the same building), and twelve non-residential categories. Existing land uses and 2005 consumption data were used to develop measures of water consumption per acre for different land use categories called Land-use Unit Demands (LUDs). The 2005 LUDs were then adjusted for historical weather effects (i.e., wet year vs. dry year)

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FIGURE 4-3 **EBMUD WATER ACCOUNTS & CONSUMPTION**

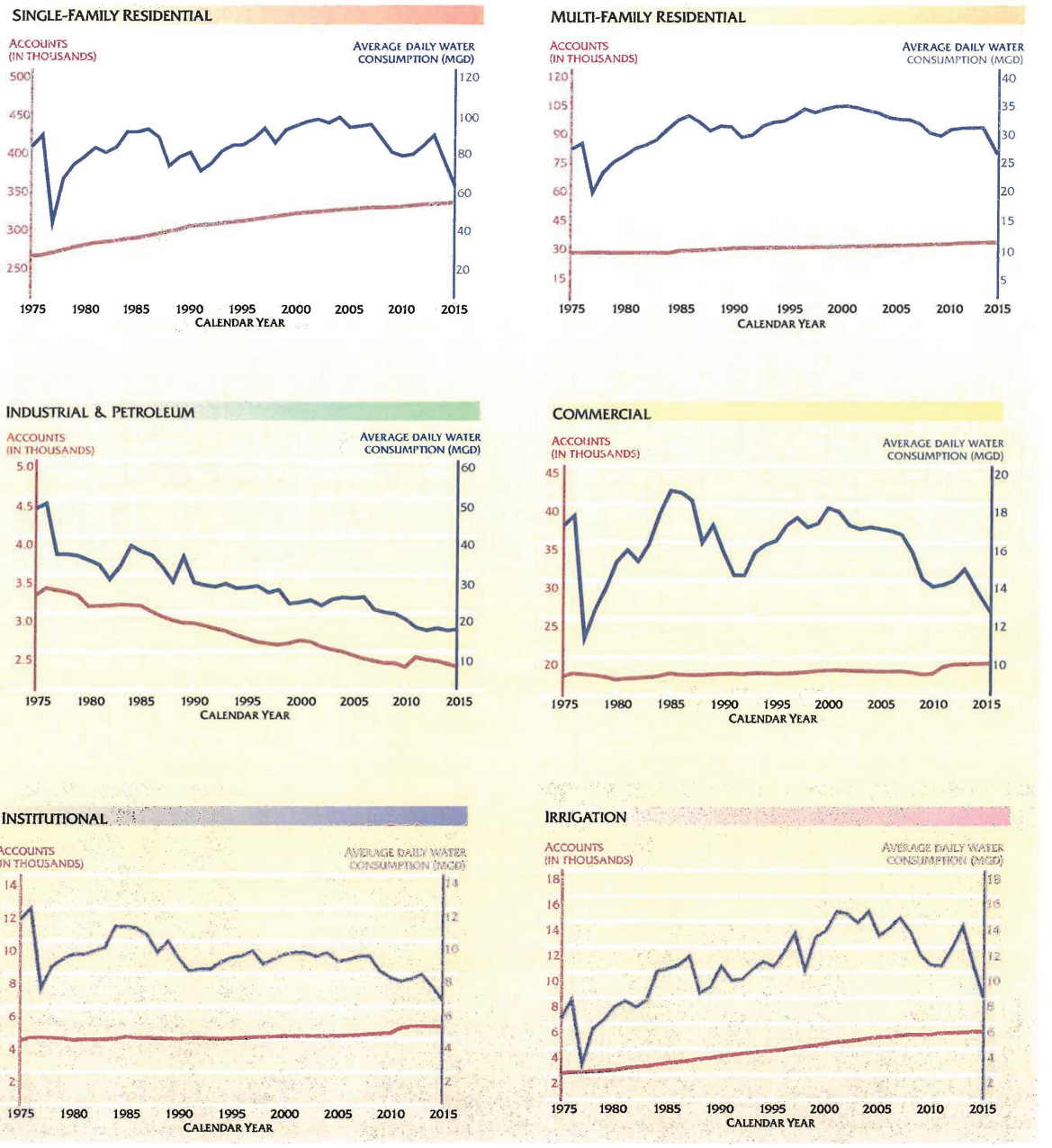

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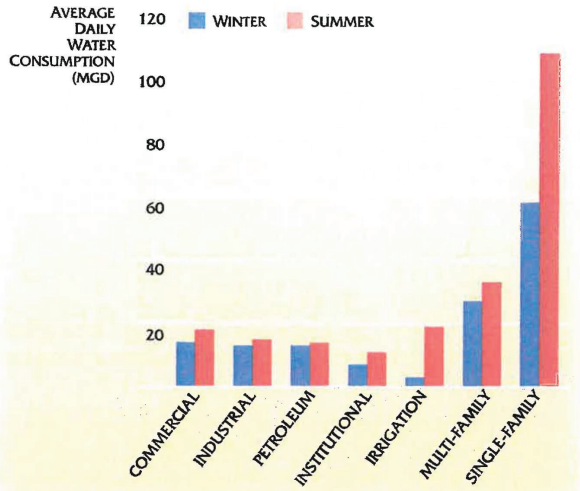
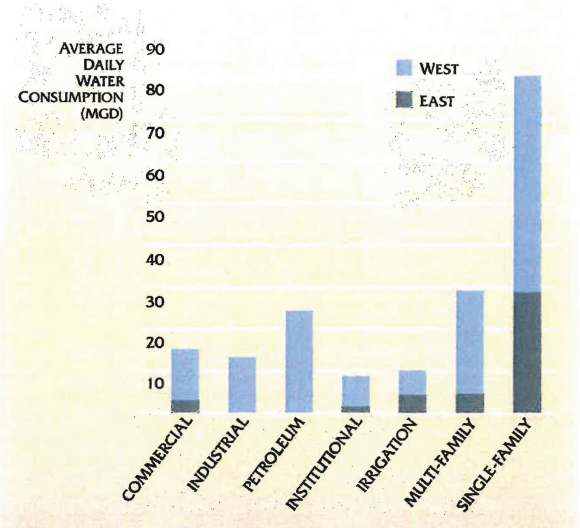
FIGURE 4-4 **WINTER AND SUMMER WATER USE BY CUSTOMER CATEGORY**



NOTES:
1. Based on Calendar Year 1975-2015 consumption data
2. Summer use based on July, August, and September consumption data
3. Winter use based on January, February, and March consumption data

FIGURE 4-5 **EAST-OF-HILLS AND WEST-OF-HILLS WATER USE BY CUSTOMER CATEGORY**



NOTE:
Based on Calendar Year 1975-2015 consumption data.

and non- weather effects (e.g., economic conditions) to produce a "normalized" year. Additional adjustments included accounting for District water use, water theft, and future densification. Local planning agencies provided data on anticipated growth and land-use changes within the EBMUD service area. The LUDs were applied to the acreages provided by the planning agencies to estimate demand based on growth and changes in land use. Demand projections were prepared for 2010, 2015, 2020, 2025, 2030, and 2040.

The land use, consumption data, adjustment factors, and demand projections were developed in a geographic information system database, which allows for the spatial allocation of data. For example, consumption data was allocated by meter location, and future growth adjustments were allocated by regions reflecting similar climates and geographic locations (EBMUD's service area is divided into 11 regions). The result consists of demand projections that can be aggregated by land use and location. Following the 2040 Demand Study, the 2007-2009 recession and the 2008-2010 drought contributed to a decline in metered water consumption that departed from the projections of the 2040 Demand Study. EBMUD initiated the MCDA in 2014 to identify significant changes to land use planning in the service area that may impact long-term demand projections and assess the short-term demands to determine how they may rebound from the recession and droughts.

The 2007-2009 great recession resulted in a temporary reduction in demand due to recession related bankruptcies and cost cutting by residential and business customers. In addition, the recession affected city and county timelines for new development, which in turn affected demand projections.

Recently updated city and county general plans were reviewed for significant changes since the 2040 Demand Study was completed, and meetings were also held with representatives from the cities of Alameda, Oakland, Richmond, and San Ramon. The MCDA concluded that, while the cities and counties might reach their build out goals later than originally anticipated, they would still reach these goals by 2040. Interim demand projections were adjusted based on decreases in water use due to the drought and economic recession, but the demands are expected to gradually increase back to 2040 projected demand levels as development and water use return to pre-drought and pre-recession conditions. EBMUD plans to complete another full demand study in 2018 looking out at a long-term horizon of 2050. As part of the demand study, EBMUD will be reaching out to each City and County in the service area to ask about projected development

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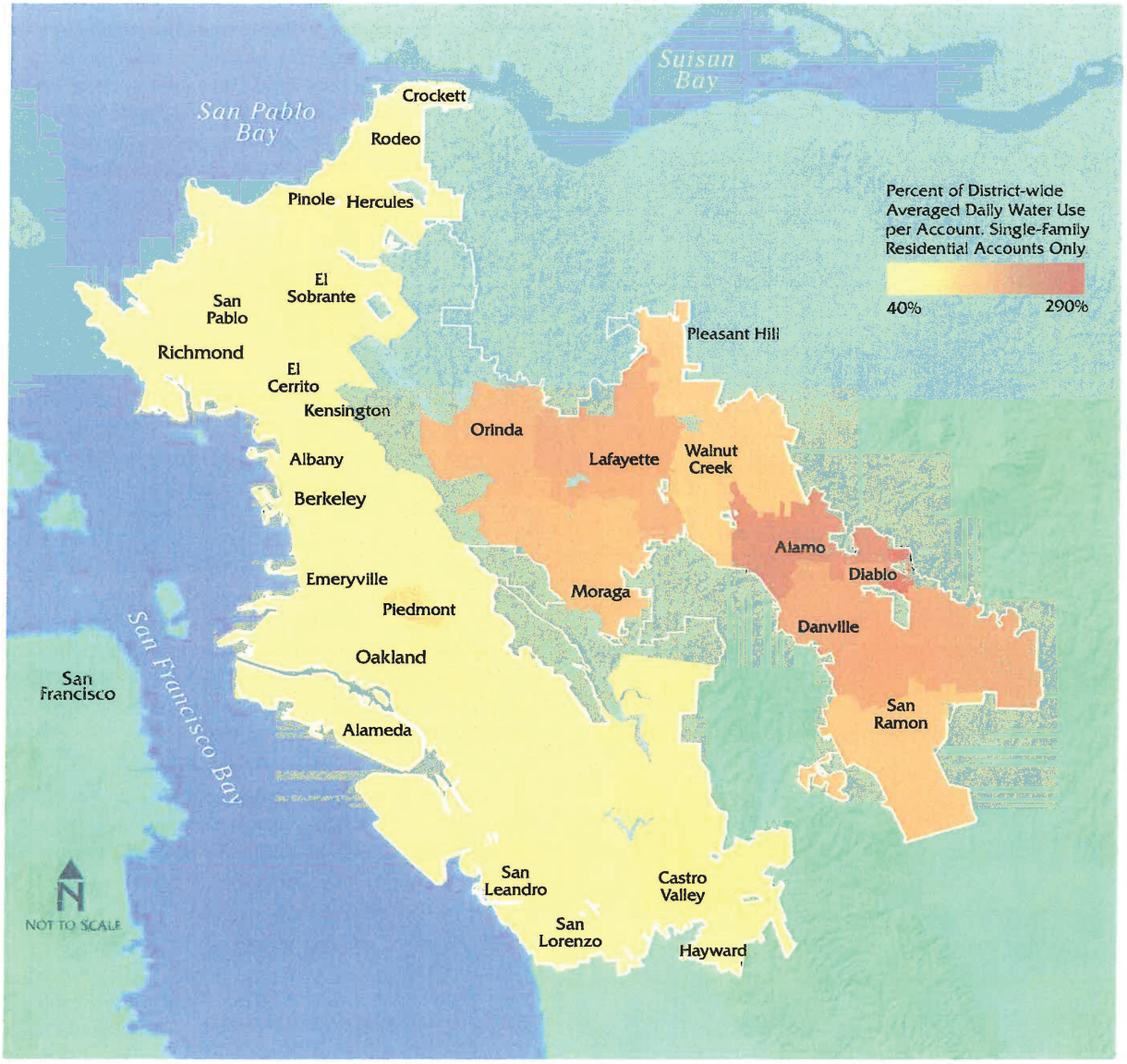
FIGURE 4-6 **HISTORICAL SINGLE-FAMILY RESIDENTIAL WATER CONSUMPTION BY REGION WITHIN THE EBMUD SERVICE AREA**



Potable water accounts only. Based on historical daily average metered consumption, 1975-2015.
Representation of non-EBMUD boundaries is not necessarily authoritative.

and future land use changes. The study results will be incorporated into the 2020 UWMP.

EBMUD uses a "planning level of demand" to assess its need for water. By modeling this fixed, planning level of demand against historic hydrology, EBMUD can assess the reliability of its water supply against different year types (wet, average, and dry) to meet future demands. The projected planning level of demand results from adjusting the projected total demand to account for the projected use of recycled water and the expansion of EBMUD's conservation program. EBMUD has set goals through 2040 for the expansion of these programs and has developed implementation schedules based on these goals.

Table 4-1 shows the total demand projections as found by the MCDA. Cumulative water savings from conservation and recycled water use are accounted for in the estimated demands. The planning level of demand does not include

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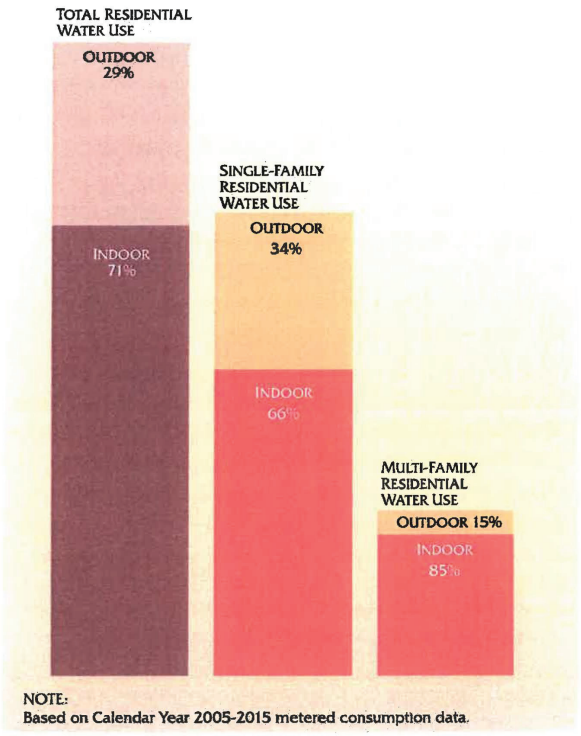
FIGURE 4-7 AVERAGE SINGLE-FAMILY RESIDENTIAL HOUSEHOLD INDOOR WATER USE



ELEMENT OF INDOOR USE	CALENDAR YEAR 2009 USE PER HOUSEHOLD (GAL/DAY/HH)	PERCENT OF USE
TOILET	35.3	20
CLOTHES WASHER	33.5	19
SHOWER	33.3	19
FAUCETS	33.2	19
LEAKS	25.6	14
BATH	9.7	5
DISHWASHER	2.3	1
OTHER	5.7	3
TOTAL	178.6	100

FIGURE 4-8 INDOOR & OUTDOOR RESIDENTIAL WATER USE



NOTE:
Based on Calendar Year 2005-2015 metered consumption data.

the short-term reduction and rebound in demand caused by rationing during droughts.

The planning level of demand may differ from the actual demand in any given year due to water use reductions that typically occur during droughts. For example, the 2015 planning level of demand differs from actual 2015 demand, as the planning level does not reflect the effects of implementing measures to reduce water use by 20% in order to achieve mandatory water use restrictions enacted by EBMUD's Board in response to the drought and the Governor's Executive Order B-29-15 issued on April 1, 2015. After droughts, a rebound effect is expected wherein demand rises back to projected levels.

Table 4-2 shows the demand projections categorized into six customer uses: single family residential; multi-family residential; commercial; industrial; institutional; and irrigation users.

4.2.2 WATER DEMANDS FOR LOW-INCOME HOUSING

California Water Code Section 1063.1.1 requires that UWMPs include an estimate of projected water demand for lower income single-family and multi-family residential housing within EBMUD's service area. For the purposes of this document, a "lower income household" is defined as one with an income limit of 80 percent of the area median income, adjusted for family size.

TABLE 4-1 MID-CYCLE DEMAND PROJECTIONS

AVERAGE ANNUAL DEMAND (MGD)	2015	2020	2025	2030	2035	2040
PROJECTED TOTAL DEMAND	232	267	276	290	304	312
CONSERVATION[1]	-33	-39	-44	-51	-57	-62
NON-POTABLE WATER[1,2]	-9	-11	-14	-17	-18	-20
PLANNING LEVEL OF DEMAND	190	217	218	222	229	230

1 See Chapters 6 and 7 for more discussion of water recycling and conservation, respectively.
2 Non-potable water includes recycled water and raw water projects.

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EBMUD offers a Customer Assistance Program (CAP) for qualified low-income residential customers and homeless shelters. Data from this program can be used to estimate demand for lower income households. Income eligibility requirements for CAP, which are based on the California Life Line Annual Income schedule, make it a subset of the classification of "lower income households" as defined by California Water Code Section 10631.1.

Table 4-3 provides EBMUD's estimated demand projections for single-family and multi-family lower-income households. The estimated lower income water demand is based on available housing data published by the Association of Bay Area Governments (ABAG), consumption data from EBMUD water accounts, and EBMUD's water demand projections.

The most recent 2008 housing data from ABAG and its projected 2007-2014 housing needs data are derived from the housing element portion of city and county general plans. The percentage of lower income housing units (4.4%) within the total housing stock in EBMUD's service area in 2008, as estimated by ABAG is assumed the same as the percentage of lower income accounts that make up EBMUD's residential accounts in 2008. This estimated number of lower income accounts will be extrapolated from the 2008 baseline. Using an annualized average growth rate (5.85%) derived from ABAG's projection of lower income housing growth for years 2007-2014, EBMUD extrapolated the number of lower income EBMUD accounts for years 2015 to 2040. In 2015, EBMUD's CAP customers included 6,169 single-family residences. It was assumed that the remaining lower-income households were multi-family residences. This proportion was carried through to 2040.

The total lower income water demand was estimated by assuming that water use for each account is equivalent to the average use of an EBMUD Customer Assistance Program (CAP) account in 2008. The 2008 per-unit water uses were multiplied against the projected total numbers of single-family and multi-family lower-income residential accounts to develop the demand projections.

EBMUD's Board of Directors approved Policy 3.07 (in Appendix F) ensures that priority for new water service connections during restrictive periods is given to proposed developments within EBMUD's existing service area that include housing units affordable to lower income households in accordance with California Government Code 65589.7. The policy also states that EBMUD will not deny an application for services to a proposed development that includes affordable housing unless certain specific conditions are met. These could include a water shortage emergency condition, or EBMUD is subject to a compliance order by the Department of Public Health that prohibits new water connections. Based on these requirements, Policy 3.07 assures that the portion of

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TABLE 4-2 DEMAND PROJECTIONS BY CUSTOMER USE CATEGORY

AVERAGE ANNUAL DEMAND (MGD)	2015	2020	2025	2030	2035	2040
SINGLE-FAMILY RESIDENTIAL	104	119	119	118	117	117
MULTI-FAMILY RESIDENTIAL	29	33	35	43	53	54
INSTITUTIONAL	7	8	8	8	7	7
INDUSTRIAL	19	22	21	19	18	18
COMMERCIAL	23	26	26	26	26	27
IRRIGATION	8	9	9	8	8	7
TOTAL	190	217	218	222	229	230

NOTE:
Demands by customer use category were developed in the 2040 Demand Study and adjusted in the 2014 Mid-Cycle Demand Assessment.

TABLE 4-3 WATER DEMAND ESTIMATES FOR LOWER-INCOME RESIDENTIAL ACCOUNTS

	2015		2020		2025		2030		2035		2040	
SECTOR	DEMAND (MGD)	% OF SECTOR DEMAND	DEMAND (MGD)	% OF SECTOR DEMAND	DEMAND (MGD)	% OF SECTOR DEMAND	DEMAND (MGD)	% OF SECTOR DEMAND	DEMAND (MGD)	% OF SECTOR DEMAND	DEMAND (MGD)	% OF SECTOR DEMAND
SINGLE-FAMILY RESIDENTIAL	0.8	0.8%	1.1	0.9%	1.5	1.3%	2	1.7%	2.6	2.2%	3.5	3.0%
MULTI-FAMILY RESIDENTIAL	1	3.6%	1.4	4.1%	1.8	5.2%	2.4	5.6%	3.2	6.1%	4.3	7.9%
TOTAL RESIDENTIAL DEMAND	1.9	1.4%	2.5	1.6%	3.3	2.1%	4.4	2.7%	5.8	3.4%	7.8	4.5%

overall water demands for lower- income households, as provided in Table 4-3, can be met.

4.3 SUPPLY-DEMAND ASSESSMENT

EBMUD must balance supply and demand to ensure that it meets customer water needs into the future. Both supply and demand can vary seasonally, and supply can decrease significantly during droughts which can last for several years. In order to have a diversified, robust water supply portfolio, EBMUD considers a variety of scenarios in its long-term planning. In spite of EBMUD's aggressive conservation and water recycling programs, Mokelumne River and local watershed supply is not sufficient to meet 2040 customer demands during multi-year droughts without achieving potentially significant water use reductions. Depending on conditions, during such droughts, EBMUD may also need to acquire supplemental supplies to meet customer demands. However, with a combination of reductions in water use and acquisition of supplemental supplies, EBMUD can provide adequate water service in all year types.

4.3.1 PAST & CURRENT DEMAND

EBMUD's average water demand in 1970 reached as high as 220 MGD. Average annual demand dropped sharply as a result of cutbacks during the subsequent drought rationing periods when drought-related programs were in effect in 1976-1977, 1987-1994, and 2007-2010. Demand remained suppressed in years that immediately followed the 1976-1977 and 1987-1994 droughts but eventually recovered to pre-drought levels. These temporary reductions in demand due to drought reflect changed customer water use behaviors, successfully implemented conservation practices, and delayed post-drought recovery in customer demand. As time progressed following the end of the droughts, demand gradually recovered to pre-drought levels. Following the 2007-2010 drought, demand began to rise to pre-drought levels, but was impeded by the emergence of yet another drought and implementation of EBMUD's drought management program in 2014.

4.3.2 METHODOLOGY

EBMUD uses a water supply system model to assess the sufficiency and reliability of its long term water supply by modeling its Mokelumne River and CVP water supplies against projected demands. Historic system hydrology is used to model the variability of EBMUD's Mokelumne River water supply. In evaluating its water supply, EBMUD incorporates both upstream and downstream diversions by senior water right holders and fishery release requirements into the model. EBMUD is required to make instream flow releases per the terms of its Joint Settlement Agreement (JSA) with the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife. Rationing levels, demands, and supplemental supplies can all be varied to analyze different scenarios or projections.

EBMUD has developed its Drought Planning Sequence (DPS) to simulate the effects of a severe, multi-year drought. The DPS incorporates the extremely dry historic hydrology that occurred in years 1976 and 1977. Given that a three-year severe drought is possible, EBMUD modifies the historic 1978 hydrology in order to extend the drought to three years. The historic 1978 hydrology is replaced with hydrologic conditions that represent the average of the critically dry years 1976 and 1977.

Computer simulations help evaluate the need for additional supplemental supplies in each modeled year. While modeling cannot predict the future, it does provide comparative analysis that can be used to gauge how the water supply system might perform under different scenarios. EBMUD's response to any specific situation will vary depending on the actual water supply and demand conditions and external factors such as regional to statewide hydrology.

4.3.3 SUPPLY ASSESSMENT

For the purposes of this supply-demand analysis, EBMUD's water supply projections include EBMUD's Mokelumne River flow entitlement, imported water from the Central Valley Project (CVP) diverted through the Freeport Facilities, and water from EBMUD's Bayside Groundwater Project.

EBMUD uses historic Mokelumne River hydrology and the DPS to determine possible supply availability scenarios from the Mokelumne River. For the 2015 UWMP, hydrology from 1921-2012 was available for use in the water supply modeling.

Under the terms of its Long-Term Renewal Contract with the U.S. Bureau of Reclamation (USBR), EBMUD can request water under its CVP contract any year when EBMUD's end of September total system storage is projected to be less than 500,000 AF. EBMUD is allowed to take a total of 165,000 AF over a three-year period, and no more than 133,000 AF in any one contract year. EBMUD is subject to USBR's Municipal and Industrial (M&I) Water Shortage Policy, which states that depending on the supply conditions in the CVP system, EBMUD's allocation may be reduced to a percentage of its "historical use" of CVP water. Unlike the other M&I CVP contractors, EBMUD can only deliver CVP water during drought periods; therefore, EBMUD's contract fixes its historical use at 133,000 AF. An upward adjustment may be available to increase EBMUD's water supply to the level necessary to meet Public Health and Safety needs within EBMUD's service area. For the purposes of this analysis, EBMUD assigns CVP allocations for each hydrologic year based on model results generated by DWR using the CalSim model. The

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DWR results show what the CVP allocation would have been in a particular hydrologic year given future buildout demands, regulations, and levels of development on the system. As a result, these allocations may differ from the historic allocations. For example, during a moderately dry year, the DWR CalSim allocation may be lower than the actual, historic allocation because the DWR CalSim results are based on a higher demand and level of development. Further discussion of the CVP supply is provided in Section 3.3.2 of this 2015 UWMP.

The Bayside Groundwater Project will allow EBMUD to bank water during wet years for extraction, treatment, and use during dry years. Construction of the project was completed in 2010, but subsequent dry conditions and the need to obtain the necessary approvals have prevented EBMUD from injecting water into the project. For the purposes of the modeling, it was assumed that up to 1 MGD of water would be available from the Bayside Groundwater Project during the third and subsequent years of a drought, defined as any year with projected end-of-September total system storage less than 500,000 AF.

4.3.4 SCENARIO DEVELOPMENT

For the 2015 UWMP supply-demand analysis, EBMUD evaluated several different scenarios to assess its need for water under potential future conditions. Different supplemental supply portfolios were also considered.

Table 4-4 lists the scenarios that were included in the supply-demand analysis. Following are additional details on how these scenarios were developed and the assumptions that were included in them.

Baseline

The baseline scenario represents EBMUD's current operations and assumptions. For this scenario, EBMUD uses its historic hydrology – with the DPS – to assess the historic water supply against each of the future demands projected in the Mid-Cycle Demand Assessment. In addition to the Mokelumne River supply, it is assumed that EBMUD can receive its requested allocation of CVP supply, subject to the M&I Shortage Policy using the modeled yearly CVP allocations provided by DWR. . For this scenario, EBMUD modeled diverting CVP supplies beginning in July of the first year of a drought, and the Bayside Groundwater Project is brought online in the third and subsequent years of a drought. The rationing and triggers are followed as outlined in Section 3.4.2 - Drought Management Program Guidelines.

Extreme Drought

For most planning purposes, EBMUD uses its DPS to model a multi-year drought as discussed above and in Chapter 3. It is possible that a more extreme drought could occur – including a drought that lasts for longer than three years. For the UWMP 2015, EBMUD conducted a sensitivity analysis to assess water supply against a potentially more severe and/or persistent drought.

EBMUD developed a severe prolonged drought by modifying the hydrologic record from the 1987-1992 drought. In order to develop a more severe and prolonged drought, EBMUD replaced the wettest year in this sequence, 1989, with an average of 1987 and 1988 hydrology.

Though the resulting six-year drought is longer than the DPS, it does not have any single year that is as critically dry as what occurs in 1977 in the DPS. For the Extreme Drought Scenario (EDS), EBMUD modeled both the 1976-1978 DPS as well as the modified 1987-1992 drought scenario.

To reflect what can occur (and did occur, most recently in 2015), EBMUD also reduced the availability of CVP supplies to 25% for this scenario. As discussed in more detail in Section 3.3.2, EBMUD's CVP supply is subject to USBR's M&I Shortage Policy. USBR indicated that, depending on CVP water supply conditions and operational constraints, it was possible for M&I deliveries to be reduced to below 50%. In 2015, EBMUD only received a 25% allocation, or 33,250 AF. In order to better understand the potential impact of significantly reduced CVP allocations, EBMUD

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TABLE 4-4 SUPPLY-DEMAND SCENARIOS MODELED BY EBMUD

SCENARIO	DROUGHT PLANNING	ASSUMPTIONS
UWMP BASELINE	1976-1978 DROUGHT PLANNING SEQUENCE	CVP SUPPLIES ARE AVAILABLE WHEN NEEDED SUBJECT TO M&I WATER SHORTAGE POLICY AS MODELED BY DWR.
EXTREME DROUGHT	1976-1978 DROUGHT PLANNING SEQUENCE	CVP ALLOCATION REDUCED TO 25% IN SECOND AND SUBSEQUENT YEARS OF DROUGHT.
	MODIFIED SIX-YEAR 1987-1992 DROUGHT	MODIFIED 1989 HYDROLOGY
CLIMATE CHANGE	1976-1978 DROUGHT PLANNING SEQUENCE	CHANGES IN TIMING OF MOKELUMNE RIVER RUNOFF CORRESPONDING TO 2° AND 4°C INCREASE IN AVERAGE AIR TEMPERATURE.
		20% REDUCTION IN MOKELUMNE RIVER RUNOFF.

DROUGHT SEVERITY INDEX

Given the recent severe drought impacting the state, EBMUD evaluated the adequacy of its current drought planning and considered developing a new, more severe drought to model. This analysis required a tool that would allow EBMUD to objectively and quantitatively compare droughts of different lengths and with different magnitudes of run-off. The tool would need to account for both the severity and duration of the drought.

After reviewing the literature on available drought severity indices, EBMUD selected a drought severity index called the "Sequential Peak Method" for use in this analysis. The Sequential Peak Method has the advantages of being relatively easy to use and intuitive to understand. It represents the severity of a drought as the cumulative water deficit over time, per the following formula:

$$w_t = \sum_{t=1}^{N} w_{t-1} + (q_o - q_i)$$

q_o = watershed yield, or in EBMUD's case, customer demands plus required releases (AF)

q_i = watershed runoff or TNF (inflows, AF)

w_t = cumulative water deficit over time

N = number of time periods

The cumulative water deficit w_t is equivalent to the amount of stored water that would be needed to meet customer demands and JSA releases.

EBMUD applied the Sequential Peak Method to historic Mokelumne River hydrology from 1921 to 2012, with 1978 hydrology adjusted to represent the DPS. Compared to other droughts in this period, the DPS is the most "severe" drought, with a w_t of 736 thousand acre-feet (TAF).

The 1987-1992 drought is also severe, with two "peaks" of w_t 438 and 513 TAF. EBMUD noticed that a less dry year occurred in 1989 and realized that, by modifying the 1989 hydrology, the two "peaks" could be connected to form a more severe drought. The modified six year period had a w_t of 794 TAF over the total drought period, making it slightly more severe than the DPS.

designed the EDS to assume exceptionally dry conditions statewide and imposed an artificial "cap" of 25% on CVP allocations during the second and subsequent years of multi-year droughts.

Climate Change

EBMUD recognizes that climate change could impact its ability to reliably provide water to its customers, as discussed in more detail in Appendix J (Climate Change Vulnerability Assessment). Based on global and regional climate change predictions, EBMUD evaluated climate change effects in the EBMUD service area and the Mokelumne River watershed as part of the Water Supply Management Program 2040 (WSMP 2040). EBMUD has identified several ways that climate change could affect its water supply reliability. Most significantly, climate change could lead to changes in the quantity and timing of precipitation as compared to historic conditions. Warmer temperatures could lead to earlier snowmelt and/or to more precipitation falling as rain rather than snow, either of which would change the timing of runoff. Climate change could also lead to an overall reduction in precipitation and runoff. While it is possible that climate change could lead to an increase in precipitation, this possibility was not studied as part of this water supply assessment.

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EBMUD looked at three possible scenarios related to climate change: a 2°C increase in average temperature; a 4°C increase in average temperature; and a 20% reduction in precipitation. These scenarios provide an initial framework to understand potential climate change impacts. Climate change impacts could also lead to longer and more significant droughts, so the Extreme Drought Scenario may also provide additional insight into the effects of climate change.

An increase in average air temperature is predicted to shift the timing of runoff, as snowpack melts earlier in the year, or as precipitation falls as rain instead of snow. In order to model this effect, EBMUD used results of its WSMP 2040 study on climate change and applied them to updated conditions and assumptions. The WSMP 2040 study used a Mokelumne Watershed Digital Elevation Model (DEM) coupled with a Geographic Information System (GIS) to estimate potential impacts of increased temperature on precipitation. The DEM data was used to develop an elevation-area relation from which watershed land area above/below specified contour lines were estimated. EBMUD used snow survey data to develop snow water equivalent (SWE) data. The data were used as input for multiple linear regressions calculating a relationship between monthly air temperature, precipitation, and SWE at five snow courses over the

historical record. The regression equations were then used to estimate SWE under the scenarios with 2°C and 4°C increases in air temperature.

EBMUD also evaluated a 20% reduction in precipitation. A 20% reduction in precipitation was assumed to correspond to a 20% reduction in runoff. EBMUD reduced the runoff in its historic hydrology accordingly.

Each of the climate change scenarios was run through a Visual Basic Script adjusting PG&E operations upstream accordingly. The resulting regulated flows were then input into the EBMUDSIM model.

4.3.5 BASELINE RESULTS

EBMUD modeled its system in the UWMP Baseline Scenario according to its existing DMP guidelines. The 2015-2040 demand projections were modeled against EBMUD's historic 1921-2012 hydrology to determine system reliability during normal years, single dry years, and the three-year DPS. Results are shown in Table 4-5.

The results of this analysis show that under baseline assumptions, EBMUD can meet customer demands out to 2040 during normal years and single dry years, which can be seen by the zero "need for water" in those years. During multi-year droughts, even with customer demand reduction EBMUD will need to develop supplemental supplies to meet projected customer demands.

4.3.6 FINDINGS FROM OTHER SCENARIOS

All of the scenarios modeled showed a need for water in the future, but the magnitude of that need varied. In particular, the 2040 need for water varied considerably depending on the scenario assumptions. Figure 4-9 shows EBMUD's demand and the need for water resulting from three of the scenarios evaluated.

The scenario analysis also highlighted the importance of EBMUD's CVP supply as a core part of its dry year water supply planning. The 25% allocation in the second and subsequent years of multi-year droughts assumed for the Extreme Drought scenario significantly increased the need for water. These results show the detrimental impact of low CVP allocations, suggesting that 25% allocations in multi-year droughts could result in the need for more severe action by EBMUD to ensure adequate water supplies are available to meet public health and safety needs without requiring water use reductions that could potentially lead to significant economic impacts.

The results from the climate change analysis helped illustrate potential impacts to EBMUD, depending on how climate change affects EBMUD's specific watershed. It is important to note that the modeling of climate change is still an imperfect science, especially at the level of granularity required to study a specific watershed. There is no standard model that is used to quantify the effects of climate change on watershed hydrology. While it is difficult to quantify the exact impacts of climate change, EBMUD's modeling does provide useful information on the potential qualitative impacts.

The scenarios that modeled an increase in average temperature included a shift in runoff patterns, with some spring snow melt runoff arriving earlier as winter rain runoff. However, the Mokelumne River has significant storage that helps to attenuate the effects of the change in runoff pattern so as to minimize its effects on EBMUD's customers. For example, there are reservoirs upstream of Pardee and Camanche Reservoirs that would act to regulate runoff. Modeling showed that winter runoff was caught and stored in the upstream reservoirs, then released in the spring and summer in a timeline similar to what EBMUD experiences now. These scenarios do result in small changes in total system storage and rationing, but the need for water was not affected. There were minor changes in the need for rationing from EBMUD customers.

The other climate change scenario, which focused on a 20% overall reduction in watershed runoff, created more substantial changes than the scenarios focusing on temperature change. The reduction in runoff led to a significant increase in the need for water and also increased the overall amount of rationing experienced by EBMUD customers. Figure 4-9 shows the variability of EBMUD's need for water, based on several of the scenarios discussed above. EBMUD's future need for water will vary depending on climate change, hydrologic conditions, and the availability of CVP supplies.

EBMUD bases its water supply planning on meeting the future need for water associated with projected customer demands. As demonstrated by the various scenarios analyzed in this chapter, there is substantial uncertainty caused by climate change, climate variability, and availability of CVP supplies during extended droughts. To ensure reliability in the face of this uncertainty, EBMUD is working to develop a diverse water supply portfolio – including water conservation, recycled water, and supplemental supply projects – so that it is positioned to adapt to future conditions, whatever they may be.

Pursuing multiple different supplemental supply projects in parallel – water transfers, groundwater banking, desalination, and expansion of surface water storage, for example – will allow EBMUD to be flexible in its response to changing external conditions. Chapter 5 discusses in more detail the supplemental supply projects that EBMUD has identified and is pursuing in order to increase the reliability of its water supply and meet customer demands.

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TABLE 4-5 **PRELIMINARY EBMUD BASELINE SUPPLY & DEMAND ANALYSIS**

SUPPLY AND DEMAND COMPARISON - NORMAL YEAR (MGD)		2015	2020	2025	2030	2035	2040
	MOKELUMNE SYSTEM	>190	>217	>218	>222	>229	>230
	DEMAND TOTALS	190	217	218	222	229	230
	DIFFERENCE	0	0	0	0	0	0

DRY YEAR RESULTS FROM EBMUDSIM (MGD)		2015	2020	2025	2030	2035	2040
SINGLE DRY YEAR OR FIRST YEAR OF MULTI-YEAR DROUGHT	MOKELUMNE SYSTEM	145	169	170	173	179	179
	CVP SUPPLIES[2]	36	35	35	35	35	35
	BAYSIDE[3]	0	0	0	0	0	0
	SUPPLY TOTALS	181	204	205	209	214	215
	PLANNING LEVEL DEMAND[1]	190	217	218	222	229	230
	RATIONING[4]	5%	6%	6%	6%	7%	7%
	DEMAND TOTALS	180	203	204	208	213	214
	NEED FOR WATER (TAF)[5]	0	0	0	0	0	0
SECOND YEAR	MOKELUMNE SYSTEM	81	103	103	107	112	113
	CVP SUPPLIES[2]	71	71	71	71	71	71
	BAYSIDE[3]	0	0	0	0	0	0
	SUPPLY TOTALS	152	174	174	178	183	184
	PLANNING LEVEL DEMAND[1]	190	217	218	222	229	230
	RATIONING[4]	20%	20%	20%	20%	20%	20%
	DEMAND TOTALS	152	174	175	178	184	185
	NEED FOR WATER (TAF)[5]	0	0	0	0	0	0
THIRD YEAR	MOKELUMNE SYSTEM	111	132	132	125	120	104
	CVP SUPPLIES[2]	40	40	40	40	40	40
	BAYSIDE[3]	1	1	1	1	1	1
	SUPPLY TOTALS	152	174	174	166	161	145
	PLANNING LEVEL DEMAND[1]	190	217	218	222	229	230
	RATIONING[4]	20%	20%	20%	20%	20%	20%
	DEMAND TOTALS	152	174	174	178	183	184
	NEED FOR WATER (TAF)[5]	0	0	2	13	24	48

1. Planning Level of Demand accounts for projected savings from water recycling and conservation programs as discussed in Chapters 6 and 7 respectively. Customer demand values are based on the Mid Cycle Demand Assessment, October 2014.
2. Projected available CVP supplies are taken according to the Drought Management Program Guidelines discussed in Chapter 3.
3. For the purposes of this modeling effort, it is assumed that the Bayside Groundwater Project would be brought online in the third year of a drought.
4. Rationing reduction goals are determined according to projected system storage levels in the Drought Management Program Guidelines discussed in Chapter 3.
5. Need for Water includes unmet customer demand as well as shortages on the Lower Mokelumne River.

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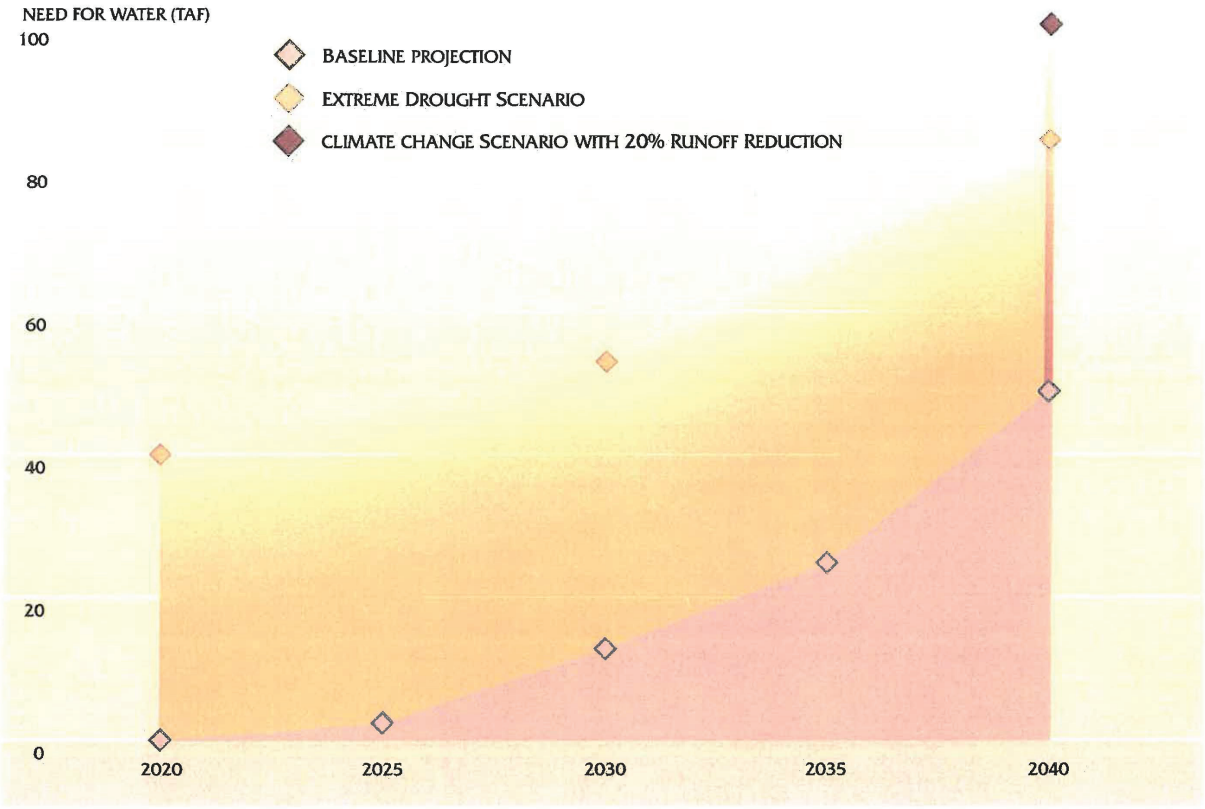
FIGURE 4-9 VARIABILITY IN NEED FOR WATER 2020-2040



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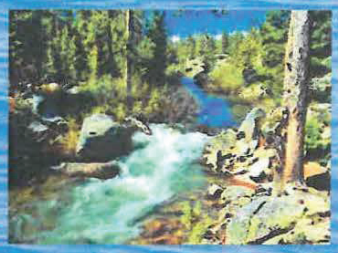











WSMP 2040

WATER SUPPLY MANAGEMENT PROGRAM 2040 PLAN

EBMUD EAST BAY MUNICIPAL UTILITY DISTRICT

FINAL APRIL 2012



The primary purpose of the Water Supply Management Plan 2040 is to identify solutions to meet dry-year water needs through 2040.

1. Introduction

1.1 Purpose

The Water Supply Management Program 2040 Plan (WSMP 2040) is an update to the East Bay Municipal Utility District's (EBMUD)'s 1993 Water Supply Management Program. The primary purpose of the WSMP 2040 is to identify and recommend solutions to meet dry-year water needs through the year 2040. The WSMP 2040 advocates performance objectives for EBMUD's water planning, to the benefit of its customers and the environment (presented in Table 2-1 in Chapter 2).

The WSMP 2040 continues the District's commitment to demand-side water management solutions by extending and expanding the current goals for rationing, conservation, and recycled water through 2040. Supplemental supply components are identified to ensure that the District will reliably provide water to its customers into the future without extreme burden due to rationing.

1.2 Key Aspects of the WSMP 2040 Plan

The WSMP 2040 seeks to provide a diverse and robust water supply portfolio[1] that ensures water reliability in an uncertain future while also protecting the environment. Through implementation of the WSMP 2040, EBMUD is meeting future growth with aggressive conservation and recycling, while supplemental supply components allow a lower rationing level and thereby decrease direct impacts on EBMUD customers during dry years. The WSMP 2040 pushes conservation and recycling to the maximum, with a total of 50 million gallons per day (MGD) of future supply being provided from those two component categories.

[1] When components such as recycling, conservation and supplemental supply are combined into a set of interrelated actions, the set of actions is referred to as a "portfolio."

Key Aspects of the WSMP 2040

- Rigorous methodology for demand projection and need for water calculations.
- Future demand change primarily due to infill development and densification.
- Conservation and Recycling are pushed to the edge of cost-effectiveness.
- Up to 15% Rationing allows flexibility in the face of future uncertainty.
- Environmental benefits are considered throughout.
- Climate Change effects on water supply and demand.
- Regional partnerships are essential for success.
- An active and participatory public outreach process.

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Components of the WSMP 2040 Portfolio

The WSMP 2040 Portfolio includes the following rationing, conservation, and recycled water goals:

- Rationing Up to 15%
- Conservation Level D (39 MGD)
- Recycling Level 3 (11 MGD)

Rationing of up to 15% was chosen to allow the District flexibility in an emergency or to respond to the many unknown factors in the future. Maximum levels of conservation (39 MGD) and recycled and raw water (11 MGD) were chosen to maintain the District's current aggressive policies for overall demand management. The combination of rationing, conservation, and raw and recycled water will satisfy increased customer demand through 2040.

Supplemental supply components will also be needed to keep rationing at a lower level and to meet the Need for Water in drought years. EBMUD will continue to study several supplemental supply components as part of the WSMP 2040 Portfolio.

- Northern California Water Transfers
- Bayside Groundwater Project Phase 2
- Sacramento Basin Groundwater Banking / Exchange
- San Joaquin Basin Groundwater Banking / Exchange
- Regional Desalination
- Expand Los Vaqueros Reservoir
- Enlarge Lower Bear Reservoir

Multiple supplemental supply components will be pursued on parallel tracks to provide a diverse and flexible strategy to meet future water needs. The success of one component could result in delaying the need for additional supplemental supply components over the course of the planning period.

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The graph to the right shows how the Need for Water assuming 15% rationing of 82 million gallons per day in 2040 could be met with Conservation (C), Recycled Water (RW), Transfers (T), Bayside Groundwater Project Phase 2 (BGW2), Sacramento Groundwater Banking Exchange (SacGW), and Desalination (D).

Variability of Mokelumne River flows requires storage to ensure system reliability. While below ground storage components are generally preferred over above ground storage options, both are included in the WSMP 2040 to provide continued reliability and diversity in the supply source and storage mechanism. To some degree, all of the supplemental supply components included in the WSMP 2040 Portfolio (also referred to as the Preferred Portfolio) involve regional partnerships, which are necessary for success.

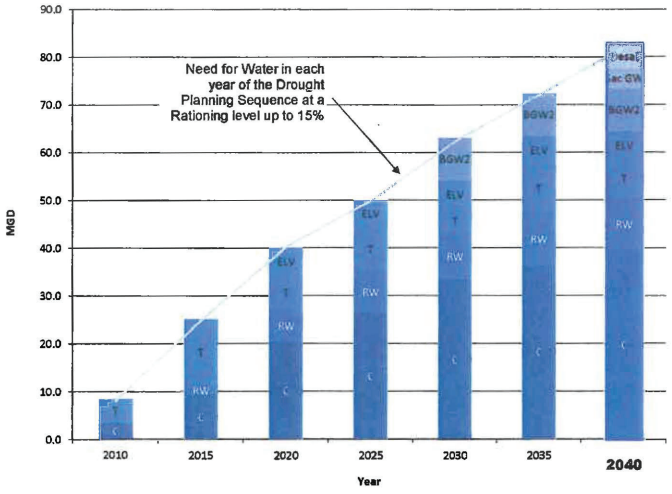

Figure 1-1 *The WSMP 2040 Portfolio Meets the Need for Water over the Planning Period.*

The information presented in this figure is based on studies that were prepared for the 2009 WSMP 2040 Portfolio, prior to the CEQA revision effort. The WSMP 2040 Portfolio meets the Need-For-Water over the planning period. See Chapter 2, Figure 2-7 for more detail. Note that the Board amended rationing to up to 15% for the Plan. The PEIR Preferred Portfolio (i.e., WSMP 2040 Portfolio), Portfolio A, Portfolio B, and Portfolio E called for 10% rationing.

1.3 The Plan – Summary

The WSMP 2040 Portfolio provides water supply reliability through 2040 with a flexible program that:

- Meets projected growth in customer demand through aggressive water conservation and recycled water development; and
- Lowers customer rationing burdens during an extended drought from the District's current policies through development of new supplemental water supply initiatives.

Many of the supplemental supply and recycled water projects components that are proposed in the WSMP 2040 have institutional or legal complexities or will require yet unknown amounts of time to develop, design, and construct. Thus, to provide flexibility and a robust strategy to deal with these uncertainties, as well as those relating to global climate change, an adaptable and flexible WSMP 2040 Portfolio was developed.

- **Robust:** A robust plan for an uncertain future (e.g., global climate change).
- **Parallel Tracks:** Pursue multiple, parallel project components.
- **Flexible:** Diverse & flexible strategy.

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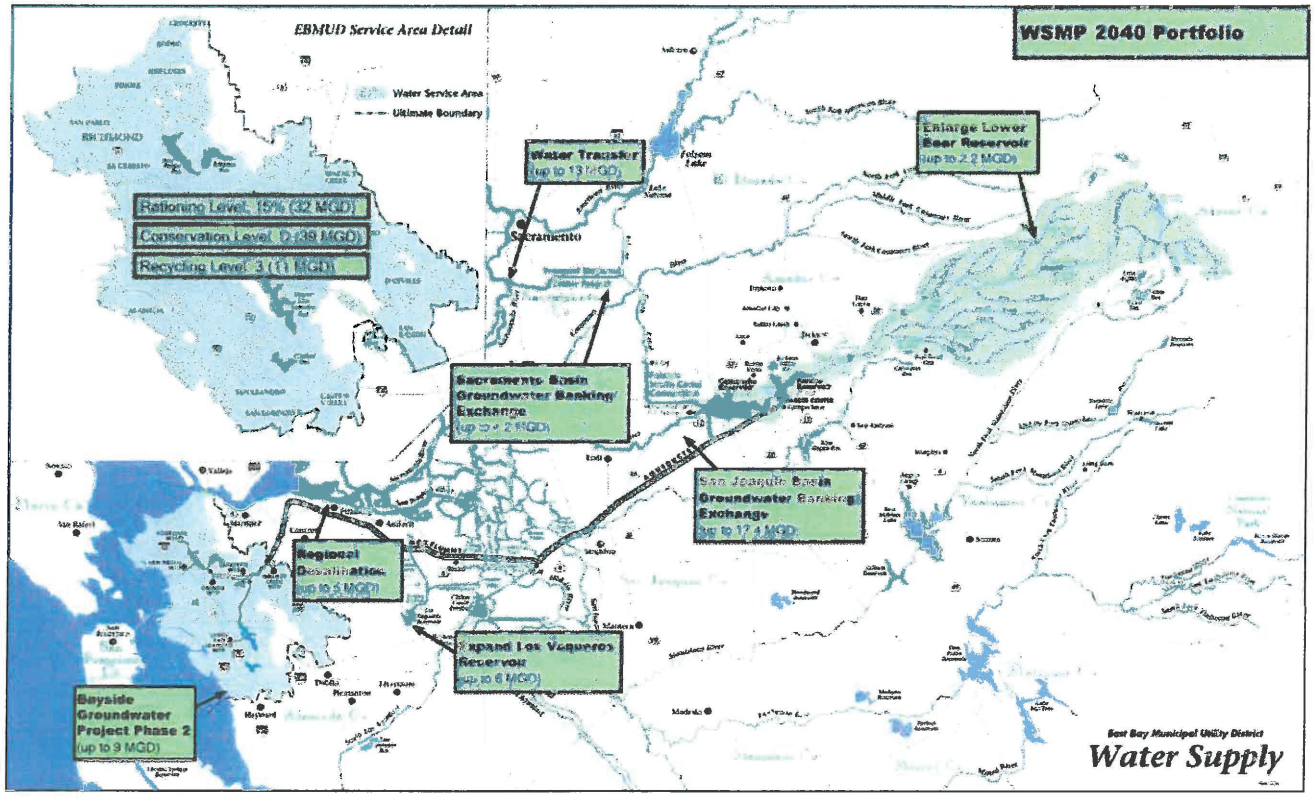

Figure 1-2 *Overview of the WSMP 2040 Portfolio Components. See Chapter 2, Figure 2-3 for more detail.*

6.3.3 WSMP 2040 Portfolio

The WSMP 2040 Portfolio is designed to be robust, flexible, diverse, and to pursue projects on multiple, parallel tracks in order to respond flexibly to an uncertain water future. Many of the supplemental supply and recycled water components that are proposed in the WSMP 2040 have institutional or legal complexities or will require yet unknown amounts of time to develop, design, and construct. Thus, to provide flexibility and a robust strategy to deal with these uncertainties, as well as those relating to global climate change, an adaptable and flexible WSMP 2040 Portfolio was developed.

Rationing of up to 15% was chosen to allow the District flexibility in an emergency or to respond to the many unknown factors in the future. High levels of conservation (39 MGD) and recycled water (11 MGD) were chosen to maintain the District's current aggressive policies for overall demand management. The combination of rationing, conservation, and recycled water will satisfy increased customer demand through 2040.

Multiple simultaneous supplemental supply components will be pursued on parallel tracks to provide a diverse and flexible strategy to meet future water needs. The success of one component could result in delaying the need for additional supplemental supply components over the course of the planning period. Not all of the supplemental supply components listed above will be constructed as part of the WSMP 2040. The broad mix of projects, the inherent scalability present in several of the elements, and the ability to adjust implementation schedules for a particular project or program included in WSMP 2040 help to minimize the risks associated with the uncertainties and development time issues identified above. Table 6-20 provides a summary of the capital cost, operating and maintenance cost, dry-year cost per acre foot, and energy use for each element of the WSMP 2040 Portfolio.

A detailed description of the WSMP 2040 Portfolio is provided in Section 2.3, The Plan.

WSMP 2040 Portfolio Goals

The WSMP 2040 Portfolio includes the following rationing, conservation, and recycled water goals.

- Rationing of Up to 15%
- Conservation Level D (39 MGD)
- Recycled Water Level 3 (11 MGD)

Supplemental supply components needing to keep rationing at a lower level and meeting the Need for Water in drought years could include:

- Northern California Water Transfers
- Bayside Groundwater Project Phase 2
- Sacramento Basin Groundwater Banking / Exchange
- Regional Desalination
- Expand Los Vaqueros Reservoir (160 TAF Expansion)
- Enlarge Lower Bear Reservoir
- San Joaquin Basin Groundwater Banking / Exchange

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Table 6-20: Summary of Capital, Operating and Maintenance, Dry Year Costs and Energy Use for Each WSMP 2040 Portfolio Element

Component[1]	Capital Cost (Mil. $)	O&M Cost ($/MG)	Dry Year Cost per Acre Foot ($/AF)	Energy Use (KWh/MG)
Conservation Level D	$319.4	$474	$4,000	--
ConocoPhillips Recycled Water Project Phase 1	$39.8	--	$1,700	3,751
ConocoPhillips Recycled Water Project Phase 2	$2.9	--	$400	3,751
East Bayshore Recycled Water Project - Phase 1B Alameda	$28.0	$987	$3,400	2,679
East Bayshore Recycled Water Project - Phase 2 Future Expansion	$9.4	$987	$2,600	2,679
Richmond Advanced Recycled Expansion (RARE) Water Project - Phase 2	--	$1,276	$5,606	1,400
Richmond Advanced Recycled Expansion (RARE) Water Project Future Expansion	--	$1,221	$1,300	5,606
Reliez Valley Recycled Water Project	$3.1	$2,807	$4,700	4,639
San Leandro Water Reclamation Facility Expansion Project - Phase 3	$16.3	$1,474	$5,300	2,509
San Ramon Valley Recycled Water Program - Phase 2	$5.0	$849	$1,600	4,265
San Ramon Valley Recycled Water Program - Phase 3	$5.5	$849	$1,900	4,265
San Ramon Valley Recycled Water Program - Phase 4	$2.5	$849	$1,600	4,265
San Ramon Valley Recycled Water Program - Phase 5	$5.4	$849	$2,700	4,265
San Ramon Valley Recycled Water Program - Phase 6	$4.0	$849	$2,900	4,265
Satellite Recycled Water Treatment Plant Project(s)[2]	$42.5	$574	$6,100	1,724
Lake Chabot Raw Water Expansion Project	$4.7	$468	$1,800	1,051
Water Transfers[3]	$20.0-$200.0	$649	$630	5,217
San Joaquin Basin Groundwater Banking / Exchange	$40.4	$1,051	$670	7,919
Enlarge Lower Bear Reservoir	$12.1	$418	$840	3,038
Bayside Groundwater Project Phase 2	$35.4	$853	$890	4,719
Sacramento Basin Groundwater Banking / Exchange	$25.0	$1,326	$1,250	8,895
Regional Desalination[4]	$79.3	$3,912	$1,970	11,000

[1] Cost information for the 160 TAF Expand Los Vaqueros Reservoir component is not provided, as cost modeling was not performed as part of the revision of the WSMP 2040
[2] Four satellite projects were included in the 11 MGD level for a total of 0.71 MGD
[3] Dry year yield ranging from 4.5-44.6 MGD
[4] The yield of the Regional Desalination component has been revised to 4 to 5 MGD since the 2009 WSMP 2040; however, all modeling results and cost estimates for this component were based on the yield assumption of 20 MGD

Source: WSMP Appendix D TM-6, sub-Appendix A: Cost Estimation Evaluation TM, September 30, 2008.

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East Bay Municipal Utilities District (EBMUD) November 21, 2016

Response to EBMUD-1
The comment is noted, and responses are provided herein to all identified comments. Additionally, please see Responses to RDEIR comments EBMUD-2, EBMUD-3, EBMUD-6, EBMUD-7, and EBMUD-8.

Response to EBMUD-2
The comment is noted. On behalf of EBMUD, EBMUD staff's interpretation of applicable policies notes that the proposed Project is inconsistent with EBMUD Policies 3.01, 3.05, and 3.08. In contrast, Section 3.9 of the RDEIR has also analyzed the matter in detail and concludes that the proposed Project can, in fact, be determined consistent with said policies. A definitive interpretation of the Project's consistency must be made by the EBMUD Board of Directors, who are the District's policy and decision makers. The formal interpretation would be obtained by having the matter heard before the EBMUD Board via a procedure that is deemed appropriate by their staff.

Nevertheless, the RDEIR includes substantial evidence documenting the basis upon which consistency could be determined (see pages 3.9-37 through 3.9-40). As a responsible agency, the EBMUD Board would not formally be asked to make any such consistency determinations or to consider providing water service to the Project until after the County, as lead agency and the local land use authority, has exercised its discretion to both include the residential development component of the Project within the ULL and to approve the Project itself. Please also refer to Master Response 1: Water Supply and Distribution for additional discussion of the Project's consistency with EBMUD policies.

Response to EBMUD-3
The comment is directed at the threshold of significance for land use, population, and housing impacts from Appendix G of the CEQA Guidelines, which provides that land use impacts resulting from implementation of the Project would be considered significant if the Project would "[c]onflict with any applicable land use plan, policy, or regulation . . . adopted for the purpose of avoiding or mitigating an environmental effect." Therefore, as a preliminary matter, land use impacts would only be considered significant, under this threshold, if the referenced EBMUD policies were adopted "for the purpose of avoiding or mitigating an environmental effect." It does not appear the referenced policies were adopted for that purpose. Rather, it appears they were adopted to reflect the EBMUD Board of Directors' priorities and objectives regarding annexations at the time of adoption. Thus, any purported inconsistencies with these policies would not result in any CEQA impacts in any event, and thus no further response is required.

Nevertheless, for informational purposes, the commenter is referred to Master Response 1: Water Supply and Distribution for a further discussion of the Project's consistency with EBMUD policies.

Response to EBMUD-4
See Response to Comment EBMUD-3. Also see the water supply discussion in Section 3.13 (pp. 3.13-28 to 3.13-33) of the RDEIR (Utilities and Service Systems) and the WSE (Appendix J), which documents the basis for concluding why there would be sufficient water supply to serve the Project as well as other present and planned developments during normal, single-dry, and multiple-dry years.

See also the edits made to Section 3.13, Utilities and Service Systems, as shown in Section 4 of this FEIR, Changes to the Recirculated EIR/Errata. The Section is revised to confirm removal of the CPUD option and focus on the EBMUD conservation offsets to demonstrate sufficient water supply.

Response to EBMUD-5
With respect to the adequacy of the CPUD water supply, see Master Response 1: Water Supply and Distribution, which explains that the CPUD option is no longer being pursued, as well as the Project's proposed approach to water supply. For the development of water supply through conservation offsets, see Responses to Comments EBMUD-40 through -45.

Response to EBMUD-6
See Response to Comment EBMUD-3.

Response to EBMUD-7
See Response to Comment EBMUD-3.

Response to EBMUD-8
See Response to Comment EBMUD-3. See also Master Response 2: Memorandum of Understanding, for a further discussion of the Project in the context of the proposed MOU.

Response to EBMUD-9
The comment is noted.

Response to EBMUD-10
As explained more fully in the WSE, supplemental new water supplies that would result from the facilitation and implementation of accelerated or expanded water conservation measures within the EBMUD service area would be made available to serve the proposed Project, so that the proposed Project would not rely on EBMUD's current water supplies. See also Master Response 1: Water Supply and Distribution.

Response to EBMUD-11
The comment is noted. The RDEIR assumes a low participation rate in the interest of providing an environmentally conservative analysis, and explicitly calls this out as an assumption for this purpose (page 3.13-26). It is understood that the Project would be treated the same as other EBMUD customers with respect to EBMUD drought restrictions if the Project is annexed into EBMUD, and this is explicitly recognized in footnote 33 on page 2-12 of the WSE.

Response to EBMUD-12
Please refer to Master Response 1: Water Supply and Distribution. In addition, water treatment facilities and water distribution facilities are discussed on page 3.13-34 of the RDEIR. Among other things, the RDEIR notes that the Walnut Creek Treatment Plant has adequate capacity to serve the Project's estimated wastewater demand and that the Project would connect to the EBMUD facilities located in the Camino Tassajara right-of-way directly adjacent to the Northern Site. The County notes that EBMUD peaking factors used to evaluate distribution and treatment system capacity are based on historical conditions for the period 1995 to 2006, which do not reflect conservation based or current technology and legal requirements. The use of these peaking factors understates future

system capacity and is not appropriate for evaluating impacts from the Project. Please see also responses to RDEIR comments EBMUD-23, EBMUD-24, and EBMUD-25.

Response to EBMUD-13
Growth-inducing impacts are discussed on page 6-2 of the RDEIR. As stated: ". . . while urban infrastructure would be extended only to the 30-acre Residential Development Area, adjacent areas would remain outside of the Contra Costa County Urban Limit Line, thereby prohibiting further expansion. The Project's proposal to permanently preserve and protect the vast majority (727 acres) of the Project Site for non-urban uses that would be owned and controlled by public agencies — which would create a permanent buffer that would impose legal, physical, and practical constraints to prevent future urban development beyond this buffer—would further ensure that no additional urban expansion would occur. In particular, approval of the proposed Project would create a barrier to future growth in the area around the proposed Project, because it would create a permanent physical open space buffer of land owned and controlled by public agencies between the proposed Project and existing development within EBMUD's service area, on one hand, and the undeveloped area north, east and south of the proposed Project Site, on the other hand. Any proposal for future development in those adjacent areas would constitute disfavored or prohibited "leap-frog" development, because it would not be contiguous to existing development.

The Project only proposes for EBMUD to provide water service for the 125 homes in the residential development area and the water fountain and bathroom facilities at the adjacent approximately 0.25-acre Pedestrian Staging Area. The RDEIR explains that the Project does not propose to extend urban infrastructure beyond the Residential Development Area and Pedestrian Staging Area or provide water anywhere else in the Tassajara Valley, including the existing residences on Finley Road. Accordingly, the proposed water supply approach for the Project would not remove an impediment to growth beyond the proposed Project or otherwise be growth inducing, because it would not provide any new source of water to support any growth beyond the proposed Project. The amount of water to be funded through the proposed water conservation approach would be at a level to sufficiently offset (as determined by the EBMUD Board of Directors and reflected in a binding agreement) the proposed Project water demands only, and would not provide any new water supply available to support any new growth.

Response to EBMUD-14
As explicitly detailed in the WSE, Project-specific demand estimates are based upon the most recent statutory regulations, plumbing codes, appliance and fixture water use standards, and policies. A new single-family home built after 2016 would be expected to have a per-capita water use lower—often much lower—than average uses for homes built when more lax regulations were in place, and when plumbing codes and appliance standards were less than today. The WSE detailed the basis for the assumed per-dwelling unit demands, citing current factors that continue to drive per-capita water demands lower, and was prepared using standard industry practices for preparing more rigorous Water Supply Assessments (in accordance with Water Code Section 10910, *et seq*.). Please refer to Master Response 1: Water Supply and Distribution. As more fully detailed in the WSE (Appendix J), Project-specific demand estimates are based upon the most recent statutory regulations, plumbing codes, appliance and fixture water use standards, and policies, consistent with current industry standards.

Furthermore, the analysis of impacts under CEQA is based on evaluation of substantial evidence about those impacts, and is subject to the land use authority's deference in making determinations when confronted with differences between experts. In preparing this FEIR, the County commissioned a letter report from an independent third party evaluating the potential water demand of 125 units. The letter report is included in Appendix J, and acknowledges that varying methodologies may be used to determine demand. Accordingly, this third party evaluation considered three different methodologies, which confirmed a range of potential water demand from approximately 47.9 AFY to approximately 91.7 AFY (rounded up to a range of 48 to 92 AFY). This evaluation also concluded that the demand figure of 56.3 AFY reflected a sufficiently conservative analysis while taking into consideration appropriate assumptions, including those relating to inclusion of modern appliances and other technologies as well as various conservation requirements, all of which are mandated by applicable laws and regulations. The Project's demand can be fully accommodated through the expansion or accelerated of conservation measures implemented through the Project's funding contribution. This is true regardless of which demand figure is used. Accordingly, this information provides further support for the existing discussion and analysis, and does not affect the conclusions of the RDEIR or otherwise trigger recirculation.

The County acknowledges that EBMUD would be the purveyor for this Project and also acknowledges EBMUD's purview in setting the estimated demand based on its own historical data. Nevertheless, the County acknowledges the disagreement among experts and the possibility that the Project's water demand could fall somewhere between approximately 48 and 92 AFY. In order to obtain approval from the EBMUD Board of Directors to have EBMUD serve the Project, the Project applicant would be required via enforceable conditions of approval to enter into an agreement that would provide for the Project to fully accommodate the demand that the EBMUD Board identifies via the expansion or acceleration of conservation measures. In addition, the County would condition the Project such that specified water conserving features and total demand would be part of the Project's CC&Rs and that fees could be levied against individual homeowners who violate conservation provisions to help ensure compliance. This is consistent with the method used in the Alamo Creek development, and has been found to be a successful approach to appropriately manage water demand.

See also Response to Comment EBMUD-15.

Response to EBMUD-15
Please see Response to Comment EBMUD-14 above. The WSE for the Project was prepared by recognized experts and peer reviewed, as appropriate, by the County's consultants. Given that EBMUD is the identified service provider and based on consultation with EBMUD in response to comments received, the County and the various technical consultants have sought to coordinate with EBMUD staff, as appropriate, regarding the methodologies and assumptions used in this EIR. The methodology for projections used by EBMUD staff is based on historical water demand information that reflects outmoded technologies and outdated water conservation policies. Necessarily then, using historic demand projections will not reflect current water-related building standards that mandate inclusion of features that result in high levels of water conservation.

Today, for example, the California Green Building Standards Code mandates water efficiency and conservation measures for both indoor and outdoor water use. This law requires new development to comply with the state's updated model water efficient landscape ordinance, which generates substantial water savings through water-saving landscape design, installation, and maintenance. As a result of these and other current legal requirements, the Project would be legally required to adhere to these more stringent updated conservation mandates, and thus would be prohibited from generating the higher water demand that historically occurred without these much more rigorous water conservation measures. Accordingly, the Tassajara Parks Project would only be allowed to generate the same -- substantially lower -- water demand evidenced by other more recent housing developments, such as the nearby Alamo Creek project.

The WSE described and applied those current, legally mandated water conservation standards and explained in detail how the Project's water demand was calculated. To the extent that the commenter asserts that all water demand calculations for planned future development involve uncertainties, the WSE addresses this concern by proposing to provide a water supply that would meet the Project's water demand with an ample margin of safety.

The revised WSE only modified the Project demands to reflect a revised evapotranspiration standard (ETo) that was provided by EBMUD staff during discussions in August 2016. All other assumptions remained the same. As stated in Response to Comment EBMUD-14 above, the WSE based water demand forecasts on current statutory regulations, plumbing code requirements, and appliance and fixture standards, and prepared the WSE using standard industry practices for preparing more rigorous Water Supply Assessments (under SB 610). The proposed Project would be required to meet these more stringent requirements and it is appropriate for the analysis to assume that these standards would not be violated.

As noted in EBMUD-14, an independent third party evaluation of water demand concluded that the demand figure of 56.3 AFY reflected a sufficiently conservative analysis while taking into consideration appropriate assumptions, including those relating to inclusion of modern appliances and other technologies as well as various conservation requirements, all of which are mandated by applicable laws and regulations. As explained in Response EBMUD-9, the Project's demand can be fully accommodated through the expansion or acceleration through the implementation of conservation measures. This is true regardless of which demand figure is used. Accordingly, this information provides further support for the existing discussion and analysis, and does not affect the conclusions of the RDEIR.

Response to EBMUD-16
See Response to Comment EBMUD-15. EBMUD's adopted 2015 Urban Water Management Plan includes statements of how EBMUD anticipates complying with current statutory requirements to reduce per-capita water use. As represented in materials formally submitted to the California Department of Resources, EBMUD expects indoor residential use to average 55 gallons per capita per day (gpcd) and targets landscape water use at 59 gpcd (see EBMUD's SBx7-7 Table 7-D: Target Method 2 Summary).[3]

[3] https://wuedata.water.ca.gov/public/uwmp_attachments/2086515128/EBMUD%20Target%20Method%202%20Tables%2Exlsx.

While the landscape value also reflects a small amount of California Irrigation Institute irrigation demands, the vast majority represents the EBMUD goal for residential landscape irrigation needs. When combined, these values from EBMUD equate to an average per-capita residential demand of 113 gpcd. At an assumed occupancy rate of 3 people per house, the annual per dwelling unit demand equates to 0.38 acre-feet—or about 340 gallons per day per unit. (The RDEIR at page 3.9-12 notes that the Single-Family Residential High Density designation has an average of 2.5 to 3 persons per household. To be conservative, the RDEIR carried forward a factor of 3 persons per household, the higher end of this range.) The WSE includes demands ranging from 0.26 to 0.38, with an average of 0.32 acre-feet per dwelling unit per year.

It is anticipated that appropriate enforcement mechanisms for implementation of on-site conservation measures, similar to those referenced by the commenter, would be imposed on the Project as enforceable conditions of approval and incorporated into the Project's CC&Rs to ensure an ongoing enforcement mechanism, similar to the approach successfully taken in the nearby Alamo Creek project.

Response to EBMUD-17
See Response to Comments EBMUD-1 and -16.

Response to EBMUD-18
See Responses to Comments EBMUD-15 and -16. In the referenced section of the EBMUD 2015 UWMP, EBMUD states "Typically EBMUD prepares a full demand study every ten years; the most recent version, the 2040 Demand Study, was completed in 2009. In 2014, EBMUD prepared the Mid-Cycle Demand Assessment (MCDA) in order to assess any significant effects on metered water consumption caused by the 2008-2010 drought and the economic downturn that inhibited growth in the Bay Area. EBMUD will prepare a full update of the demand study before the 2020 UWMP" (p. 48). Thus, the historic demand is based on materials and data completed more than a decade ago and based upon demand data from 2005. As illustrated in prior responses, many new regulatory changes have occurred and more efficient appliances and fixtures are available (and mandatory) that did not exist in 2005.

Response to EBMUD-19
See Responses to Comments EBMUD-15 and 16. Please also refer to Master Response 1: Water Supply and Distribution.

Response to EBMUD-20
See Responses to Comments EBMUD-14, -15, -16, and -19. Please also refer to Master Response 1: Water Supply and Distribution.

Response to EBMUD-21
See Responses to Comments EBMUD-15 and -16. See also Master Response 1: Water Supply and Distribution.

Please also note that CEQA Section 15151, Standards for Adequacy of an EIR, directs that an EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information that enables them to make a decision that intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be

exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

Response to EBMUD-22
On page 2-39, the RDEIR notes that "the Project applicant is expected to request annexation of the Residential Development Area (as well as the adjacent Pedestrian Staging Area) into the service area of EBMUD." No request would be made to annex any other areas within the Project Site including the retention basin or pump station into the EBMUD service area.

Response to EBMUD-23
The comment notes that the Project would impact EBMUD's water distribution system in Scenic Zone PZ. However, the basis for the comment's statement with respect to "pre-existing future deficiency" in storage and pumping is unclear. This response is based on an assumption that the comment concerns "a prior analysis that indicated a potential future deficiency in storage and pumping." Characterizing a projected future deficiency in storage and pumping as "pre-existing" essentially presents that deficiency as a certainty, which then is used as the starting point for the evaluation. However, projections of future conditions are subject to revision based on such factors as, among others, improvements in conservation technology and changes in policies that may reduce future demands.

The evaluation of infrastructure improvements in the RDEIR is based in part on the estimated water demands of the proposed Project, and as explained more fully in Responses to Comments EBMUD-15 and 16, the estimated water demands of the proposed Project properly reflect consideration of present-day technology and water conservation policies. These demand estimates were then used in the evaluation of infrastructure improvement impacts (see, e.g., RDEIR pp. 3.13-34), which appropriately reflects the anticipated future capacity based on reasonable assumptions and methodologies. The County notes that EBMUD evaluates the capacity of its distribution infrastructure using peaking factors based on historical conditions for the period 1995 to 2006, which do not reflect more current conservation measures or other updated technology and legal requirements. As such, the County has determined that the use of the EBMUD peaking factors is not appropriate for evaluating the incremental impact of the Tassajara Parks Project on existing distribution infrastructure, given the fact that the Project is legally mandated to implement water efficiency and conservation measures for both indoor and outdoor water use. Using EBMUD's peaking factors would understate future system capacity, and for this reason it was explained in the WSE that EBMUD's peaking factors were not used.

Response to EBMUD-24
See Responses to Comments EBMUD-23 and -25. As explained more fully therein, the use of peaking factors based on historical conditions for the period 1995 to 2006 (which do not reflect current conservation-based measures or other updated technology and legal requirements) would understate future system capacity and is not appropriate for evaluating impacts from the Project.

Response to EBMUD-25
See Response to Comments EBMUD-23 and EBMUD-24.

Section 2.5.3 of the WSE discusses storage and pumping capacity available from the Scenic Pressure Zone, through which water for the proposed Project would be conveyed. That section of the WSE also estimates the Maximum Day Demand (MDD) associated with the proposed Project. Because of the high percentage of consistent indoor use, and the limited addition of irrigation demands because of recently increased MWELO restrictions, the MDD for the proposed Project was estimated by applying a factor of 2.0 to the Average Day Demand, rather than the factor of 2.5 that the commenter suggests, which is a reasonable estimated demand that reflects modern technology and updated conservation policies.

The WSE considered the amount of storage capacity and pumping capacity available (WSE, pages 2-12 to 2-13). The available capacity was determined to be adequate when consideration is given to the expected lower water demands for future development considering modern technology and current water conservation policies.

Response to EBMUD-26
The comment is noted. This comment does not raise any CEQA issues, and, therefore, no response is required. Nevertheless, it is acknowledged that, assuming water service is provided by EBMUD, the Project applicant would be responsible for costs for system improvements necessitated by increased capacity required to serve the Project in accordance with applicable EBMUD provisions and standards.

Response to EBMUD-27
The comment summarizes the prior proposal that involved two different water supply options. See Master Response 1: Water Supply and Distribution, which explains that the CPUD option is no longer being pursued. No further response is required.

Response to EBMUD-28
No response is required.

Response to EBMUD-29
See Master Response 1: Water Supply and Distribution, which explains that the CPUD option is no longer being pursued.

Response to EBMUD-30
See Master Response 1: Water Supply and Distribution, which explains that the CPUD option is no longer being pursued.

Response to EBMUD-31
See Master Response 1: Water Supply and Distribution, which explains that the CPUD option is no longer being pursued.

Response to EBMUD-32
Public notice of the availability of the RDEIR was provided in several different ways. First, notice was given via direct mailing to the last known name and address of all organizations and individuals who have previously requested notice, including all individuals and agencies that previously provided comments on the previous Notice of Preparation and the DEIR.

Second, notice was directly mailed to owners and occupants of property within 300 feet of the Project Site. These actions comply with and exceed the minimum CEQA noticing requirements under applicable laws. In addition, notice was provided via electronic mail to a number of interested entities including environmental groups, public agencies, and interested individuals that have expressed interest in receiving the County's environmental notices generally.

Finally, the RDEIR itself (including all appendices) has been (and continues to be) available online on the County's website commencing on the first day of the public comment period and hard copies of the document have been (and continue to be) available commencing on the first day of the public comment period at various public locations. Thus, public notice has been provided on the Project in numerous ways and in a manner that meets and exceeds the applicable noticing requirements for public notice on the availability of an EIR. See also Master Response 1: Water Supply and Distribution, which explains that the CPUD option is no longer being pursued.

Response to EBMUD-33
Please refer to Master Response 1: Water Supply and Distribution. The County notes that it is EBMUD's Board of Directors that must ultimately determine whether the Project is consistent with the priorities and objectives underlying the EBMUD Board's own policies when a request for approval to supply water to the Project goes before them.

Response to EBMUD-34
Please refer to Master Response 1: Water Supply and Distribution. The applicant is no longer proposing to acquire CPUD water.

Response to EBMUD-35
Please refer to Master Response 1: Water Supply and Distribution. The applicant is no longer proposing to acquire CPUD water.

Response to EBMUD-36
The County notes that CEQA does not require the analysis of emergency situations. See also Master Response 1: Water Supply and Distribution, which confirms that the CPUD option is no longer being pursued.

Response to EBMUD-37
Please refer to Master Response 1: Water Supply and Distribution. The applicant is no longer proposing to acquire CPUD water.

Response to EBMUD-38
The County notes that CEQA does not require the analysis of emergency situations. See also Master Response 1: Water Supply and Distribution, which confirms that the CPUD option is no longer being pursued.

Response to EBMUD-39
Based on discussion with EBMUD staff to address their July 13, 2016 comment letter, use of recycled water offsets was eliminated as a potential water supply source, and use of conservation water offsets was added as a potential water source at EBMUD staff's suggestion. It is noted that accelerating implementation of Level D measures means that water supplies are developed through

conservation earlier than they would have been under the Water Supply Management Program (WSMP), resulting in new water.

Water conservation offsets may be required to have offsets at some multiple of the demands to be offset. To the extent that the EBMUD Board requires such a multiple (which would be required as an enforceable condition of approval and set forth in an binding agreement with the applicant), the benefits of new water generated by bringing conservation online earlier would also be multiplied.

Response to EBMUD-40
EBMUD has a base of information to allow identification of conservation measures that are viable, and additional measures were identified by EBMUD as Conservation Level E in its WSMP 2040 Final Plan, along with an estimated level of water savings. The WSE references found measures identified by EBMUD in Conservation Level E, which are projected to provide an additional 2 mgd of water savings (i.e., over 2,200 acre-feet annually, many times the estimated demand of the proposed Project). The Level E measures, as outlined in Appendix D TM-5 of the WSMP 2040 (Table 6), include Measure 31 Financial Incentives for Irrigation Upgrades Intensive, Measure 48 Cisterns, Measure 50 Graywater Retrofit SF, and Measure 51 Graywater New SF. While ultimate implementation of such measures for a conservation offset would need to be addressed and agreed upon by the EBMUD Board of Directors and the Project applicant in a binding agreement, the information and data in EBMUD's WSMP 2040 Final Plan provides a sufficient basis to evaluate this approach for purposes of CEQA.

Response to EBMUD-41
The WSE, included as Appendix J to the EIR, provides details regarding water efficiency code updates and other factors affecting the derivation of Project demands.

Response to EBMUD-42
Indoor and outdoor residential water demand factors are defined and expressed in terms of AFY on page 3.13-24 of the RDEIR. The commenter is accurate in that units were inadvertently left off of Table 3.13-2, which should have noted the values were in acre-feet per year. However, Table 3.13-4 did include the units. The tables refer the reader to the WSE, included as Appendix J to the EIR, for details regarding derivation. To clarify the information contained in the RDEIR, Table 3-2 has been amended to show the factors in acre-feet per year. The County notes that Table 3-4 on page 3.13-26 of the RDEIR shows the applicable units of measurement and no change to the RDEIR is required to address the comment regarding this table.

Response to EBMUD-43
Only outdoor use is expected to increase during dry years, as indoor use is expected to remain consistent regardless of hydrology. The outdoor demand is generally expected to increase because of limited rainfall, which homeowners tend to react to by turning on landscape irrigation systems earlier in the season. Therefore, the effect of less rainfall only increases demand during the spring months for inland areas similar to the Project's location. Demand during summer months is not anticipated to change. The 5 percent increase on the total Project demand is a generalized method to reflect the larger percentage increase on only the landscape demands of the Project to reflect the increased demand during spring months.

Response to EBMUD-44
Please refer to Master Response 1: Water Supply and Distribution. As noted above, the RDEIR and WSE describe two water supply options for serving the Project and demonstrate that either option would sufficiently supplement existing EBMUD water supply and provide adequate water for the Project. See Responses to Comments EBMUD-40, -42, and -43 for further discussion regarding the sufficiency of the RDEIR's water supply and analysis.

Response to EBMUD-45
Please refer to Master Response 1: Water Supply and Distribution. See also Response to EBMUD Comment 44, above.

Response to EBMUD-46
The comment is noted. The comment does not raise any CEQA issues, and, therefore, a response is not required. However, for informational purposes, the following response is provided. It is noted that the proposed water supply source (conservation offsets) would be relatively reliable in dry years, as explained more fully in the WSE (see, e.g., pp. 4-1 through 4-4) but that EBMUD's Central Valley Project (CVP) contract may require an application to include the proposed Project lands in the CVP place of use. Any and all subsequent approvals would be required to be obtained in accordance with applicable laws and regulations

Response to EBMUD-47
The comment is noted. The comment does not raise any CEQA issues, and, therefore, a response is not required. However, for informational purposes, the following response is provided. It is acknowledged that the proposed water supply approach through water conservation offsets would trigger the need for a petition to the California State Water Resources Control Board (State Water Board) to change the place of use of EBMUD's water rights. In addition, the County notes that page 2-41 of the RDEIR lists the State Water Board as a Responsible Agency. Additionally, Section 2.6 of the RDEIR has been amended to clarify that State Water Board approval of EBMUD's change petition would be required.

Response to EBMUD-48
Please refer to Response to Comment EBMUD-2.

Response to EBMUD-49
Please see responses to comments on the Draft EIR.

Response to EBMUD-50
The inclusion of this text is noted. The text does not identify a specific issue related to adequacy of the RDEIR.

Response to EBMUD-51
The reference text related to Contra Costa LAFCO, Section 3.15 Provision of Services by Contract (out of agency service) is noted. The text does not identify a specific issue related to adequacy of the RDEIR, and therefore no further response is required.

Response to EBMUD-52
The inclusion of this text is noted. The text does not identify a specific issue related to adequacy of the RDEIR, and therefore no further response is required.

Response to EBMUD-53
The inclusion of text from the Urban Water Management Plan is noted. The text does not identify a specific issue related to adequacy of the RDEIR, and therefore no further response is required.

Response to EBMUD-54
The inclusion of text from the WSMP 2040 is noted. The text does not identify a specific issue related to adequacy of the RDEIR, and therefore no further response is required.

CITY OF SAN RAMON

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November 14, 2016

Mr. John Oborne
Senior Planner
Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Re: Recirculated Draft Environmental Impact Report (R-DEIR) – Tassajara Parks Project

Dear Mr. Oborne:

The City of San Ramon appreciates the opportunity to comment on the Tassajara Parks R-DEIR. It remains our understanding that there have been no changes to the project since the publication of the original Draft Environmental Impact Report just a further evaluation and clarification of the project's potential impacts on the environment and additional information regarding the Tassajara Valley Memorandum of Understanding. In reviewing the R-DEIR, the City has the following comments: 1

Geologic Hazard Abatement District (GHAD)

Overall Comments/Questions

The southern portion of the project contains a proposed GHAD area that will lie adjacent to an existing GHAD open space area managed by the City of San Ramon. The City requests to review this proposed GHAD Plan of Control and recommends management of this new GHAD area similar to the City's GHAD. 2

Transportation

Overall Comments/Questions

Confirm whether or not the latest version of the CCTA Travel Demand Model was used. Also, if any modifications were made, and subsequently approved by CCTA? 3

Please add Transportation Demand Management Policies as part of the final R-DEIR. TDM policies can help to achieve reduction in vehicle car trips. 4

Comments on R-DEIR

Page 3.12-2 – Dougherty Road – The R-DEIR states that the posted speed limit for Dougherty Road is 50 mph between Crow Canyon Road and Bollinger Canyon Road. This is correct; however, the posted speed limit of the new segment of Dougherty Road is 45 mph. 5

Page 3.12-9 – Intersection #16 should read…The City of San Ramon. 6

Page 3.12.18 – TRAFFIX service. The document implies that TRAFFIX service will be expanded. This is not accurate. TRAFFIX service will only be expanded when additional funding becomes available, expansion of service is feasible with the TRAFFIX bus operator, and approved by the Board of Directors. 7

Page 3.12-19 – Routes of Regional Significance. Bollinger Canyon Road and Dougherty Road are also identified in the TVTC Action Plan as Routes of Regional Significance. 8

Page 3.12-33 – City of San Ramon Facilities – Add Bollinger Canyon Road and Dougherty Road as Routes of Regional Significance. 9

Page 3.12-43 – Under Construction – The I-580 Express lanes are completed and opened in 2016. 10

Mitigation Measures

MM TRANS-1 – The West Dublin BART station has been constructed and is now open. TVTC fees are no longer applied to the West Dublin BART station project. 11

Traffic Engineering

Overall Comments/Questions

Dougherty Road is a six-lane major arterial (three lanes in each direction). If Dougherty Road is coded as a four-lane roadway as the 2013 CCTA Travel Demand Model, this could have an impact on the select zone analysis used to derive the trip distribution. 12

There is no mention of the new segment of Dougherty Road south of Bollinger Canyon Road that opened in August 2016. The new segment includes three lanes in each direction. The new segment is shown in the select zone model run for 2035; however, it is not apparent how many lanes are assumed for Dougherty Road. 13

The Cumulative plus project conditions show a LOS E in the PM peak at the intersection of Crow Canyon Road/Dougherty Road, which is located in the City of San Ramon. In accordance with the City of San Ramon's Municipal Code, "the minimum acceptable level of service at arterial intersections shall be the upper bound of LOS D." 14

The document states that the City of San Ramon has reviewed the final trip generation and trip distribution for the project. Provide the appropriate reference to this statement, i.e. date of correspondence or attachment. 15

Tassajara Memorandum of Understanding (MOU)

The Tassajara Parks Project is proposed within the boundary of the proposed agricultural enhancement area and outside the County ULL. If adopted, the Draft MOU provides a mechanism for a project like Tsssajara Parks, to be removed with a contribution of $4 million to an agricultural enhancement fund and dedication of at least 500 acres. It also is the City understanding that if the parties approve the MOU, this would satisfy one of the seven findings required under Chapter 82-1 for a 30-acre adjustment to the ULL.

For many years, the City of San Ramon has supportive efforts to preserve agricultural lands in the Tassajara Valley. If executed, we see the MOU as a firm commitment to preservation of Tassajara Valley and would further the implementation of the City's Measure G, Open Space Preservation Action Plan and the City Council goal of preservation of open space on our eastern boundary.

We appreciate the continued dialogue on this project and look forward to cooperatively working together in the best interest of maintaining the character of the Tassajara Valley. Please provide us with notice to any upcoming hearings.

Should have any additional questions or need clarification, I may be reached at (925) 973-2566.

Sincerely,

Debbie Chamberlain
Division Manager, Planning Services

cc Mayor and Members of the City Council
Joe Gorton Interim City Manager
Eric Figueroa, Assistant City Manager

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City of San Ramon (SR) November 14, 2016

Response to SR-1
The commenter provides introductory text. No response is required.

Response to SR-2
The comment is noted. Please refer to Master Response 2: Agricultural Preservation Agreement. Please also note that the commenter erroneously refers to the Geological Hazard Abatement District (GHAD) being located over the Southern Site. The GHAD's boundaries would cover the Northern Site.

Response to SR-3
The most up-to-date Contra Costa Transportation Authority (CCTA) methodology was used in the Travel Demand Model (as of the Project date of issuance of the NOP for the DEIR) in accordance with applicable CEQA requirements. No modifications were made to the model.

Response to SR-4
Transportation Demand Management (TDM) measures are typically applied to office and retail uses where the impact can be substantial. TDM measures are difficult to implement for single-family homes and thus not typically viewed as effective, and therefore, the use of TDM is not considered as part of this Project.

Response to SR-5
The new segment of Dougherty Road was added after the NOP was issued. Additionally, the difference between 50 miles per hour (mph) and 45 mph on this relatively short segment would not have any material impacts on the analysis findings or operations experienced in the field. Therefore, no change to the text or analysis is required.

Response to SR-6
The comment is noted. The EIR text has been changed accordingly. However, this revision merely clarifies and amplifies the analysis and does not substantively affect the underlying evaluation, and thus no further review is required.

Response to SR-7
The comment is noted. The EIR text has been changed accordingly. However, this revision merely clarifies and amplifies the analysis and does not substantively affect the underlying evaluation, and thus no further review is required.

Response to SR-8
The comment is noted. The EIR text has been changed accordingly; see Section 4, Changes to the Recirculated Draft EIR/Errata. However, this revision merely clarifies and amplifies the analysis and does not substantively affect the underlying evaluation or conclusions, and thus no further review is required.

Response to SR-9
The comment is noted. The EIR text has been changed accordingly; see Section 4, Changes to the Recirculated Draft EIR/Errata. However, this revision merely clarifies and amplifies the analysis and does not substantively affect the underlying evaluation or conclusions since the applicable LOS

criteria threshold for purposes of conducting the traffic analysis remains LOS E. Thus, no further review is required.

Response to SR-10
A clarifying note is added to the RDEIR. Please see Section 4, Changes to the RDEIR/Errata for confirmation of the text change.

Response to SR-11
The comment is noted. The mitigation measure text has been refined to remove the reference to the West Dublin BART Station. As shown in Section 4, Changes to the RDEIR /Errata for confirmation of the text change, the new text reads as follows:

MM TRANS-1: Prior to the issuance of building permits, the Project applicant shall pay the applicable Tri-Valley Transportation Development (TVTD) Fees, which shall serve as partial mitigation for the impact to freeway segments. The fees contribute to the construction of planned freeway improvements, including HOV lanes, auxiliary lanes, interchange improvements as well as other regional transportation improvements, including the BART extension to Livermore ~~including a contribution toward the new West Dublin BART Station~~. Impact fees are due at time of receipt of building permits. Payment of these fees will partially mitigate the incremental impact.

This change merely clarifies and augments the EIR's analysis and does not substantively modify the underlying conclusions of the EIR or otherwise trigger recirculation.

Response to SR-12
Section 3.12 of the RDEIR had previously been updated prior to recirculation to reflect the current 6-lane configuration of Dougherty Road. The road was therefore correctly coded in the CCTA Travel Demand Model, which was used in the EIR's traffic analysis. This change merely clarifies and amplifies the EIR's analysis and does not substantively modify the underlying conclusions of the EIR or otherwise trigger recirculation.

Response to SR-13
See Response SR-12 above. The CCTA model run, which was used to conduct the Project's traffic analysis, correctly reflects the new segment.

Response to SR-14
The RDEIR acknowledges the City's LOS D standard (see RDEIR, at pp. 3.12-33). However, the 2014 CCTA Tri-Valley Action Plan specifies routes of regional significance, which includes Dougherty Road/Crow Canyon Road and incorporates an LOS E standard (rather than LOS D) for these routes. The RDEIR clearly states that, for this analysis, intersections within the jurisdiction of the City of San Ramon are considered to be significantly impacted if the base case operations are LOS D or better and the Project would degrade operations to LOS E or F, unless it is a route of regional significance, in which case, a significant impact occurs if the base case operations are LOS E or better and the Project would degrade operations to LOS F.

Response to SR-15

The City of San Ramon was given the opportunity to review and comment on the traffic study intersection methodology. The City of San Ramon was contacted by Kimley-Horn Associates in February 2015 and again in March 2015, prior to the initiation of traffic counts and analysis. This is noted on page 3.12-9 of the RDEIR. Furthermore, evidence of such contact is provided in the appendix of the Project traffic study as included in Appendix I of the DEIR and RDEIR. The City did not provide any response or input in this regard.

Response to SR-16

The comments are noted. Please also see Master Response 2: Memorandum of Understanding.

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John Oborne

From:	Tom <tomi@volcano.net>
Sent:	Friday, November 11, 2016 12:17 PM
To:	John Oborne
Cc:	'Peter Martin'; Sykes, Richard; dleatherman@cpud.org; 'Marcus, Felicia@Waterboards'; cedson@co.calaveras.ca.us; cwright@co.calaveras.ca.us; 'John Garamendi Jr'; pmaurer@co.calaveras.ca.us; gtofa@yahoo.com; Jami Napier
Subject:	Tassajara Parks Project RDEIR Comments, CFN: GP07-0009, RZ09-3212; SD10-9280, DP10-3008.
Attachments:	RDEIR Tassajara fin pdf.pdf

Dear Sir:

The comments of the Calaveras Planning Coalition on the RDEIR for the Tassajara Parks Project are attached.

As you know, the Tassajara Parks Project is a 125-unit residential subdivision proposed outside the Urban Limit Line. Contra Costa County currently designates the project area as Agricultural Lands, and zones it A-80, Exclusive Agricultural District. **The project's water will come from either EBMUD water conservation, or from a contract for up to 100 acre-feet of water per year from the Calaveras Public Utility District's Schaads Reservoir in Calaveras County.**

We encourage Contra Costa County to work with the ample supplies of the Contra Costa County Water District and EBMUD to effectively meet the water needs of your future developments. We strongly suggest that you discourage your local developers from seeking to take from Calaveras County the limited waters we retain for local recreational, agricultural, residential, and economic development. We respect your desire for a brighter future. We ask you to respect ours. 1

Please confirm your receipt of these comments by reply email.

Sincerely,

Thomas P. Infusino

Thomas P. Infusino, Esq.
P.O. Box 792
Pine Grove, CA 95665
tomi@volcano.net
(209) 295-8866

11/11/16

John Oborne, Senior Planner
Contra Costa County
Department of Conservation & Development
30 Muir Road
Martinez, CA 94553
John.Oborne@dcd.cccounty.us (transmitted by email)

RE: Comments on the RDEIR for the Tassajara Parks Project
(County File Numbers GP07-0009, RZ09-3212, SD10-9280, DP10-3008)

Dear Sir:

My name is Tom Infusino and I am writing on behalf of the Calaveras Planning Coalition (CPC). The CPC is a group of community organizations and individuals who want a healthy and sustainable future for Calaveras County. We believe that public participation is critical to a successful planning process. United behind eleven land use and development principles, we seek to balance the conservation of local agricultural, natural and historic resources, with the need to provide jobs, housing, safety, and services.

As you know, the Tassajara Parks Project is a 125-unit residential subdivision proposed outside the Urban Limit Line. Contra Costa County currently designates the project area as Agricultural Lands, and zones it A-80, Exclusive Agricultural District. The project's water will come from either EBMUD water conservation, or from a contract for up to 100 acre-feet of water per year from the Calaveras Public Utility District's Schaads Reservoir in Calaveras County. 2

The CPC has been actively involved in Calaveras County regional and inter-regional water supply issues for 8 years. From 2008 to 2009, we worked in a collaborative effort with stakeholders organized by Calaveras County Water District to draft a water element for Calaveras County. From 2008 through 2012, the CPC actively encouraged EBMUD to look to water supply alternatives other than raising the dam at Pardee Reservoir on the Mokelumne River. From 2011 to 2013 we worked with EDMUD and local stakeholders on the Mokelumne-Amador- Calaveras Integrated Regional Water Management Plan. From 2013 to 2015, we worked with stakeholders, including EBMUD and San Juaquin County, to complete the MokeWISE Plan to guide future investments in resource conservation and development in the Mokelumne River Watershed. Our efforts in these activities can be reviewed on our website www.calaverascap.com .

1) **Please re-notice and circulate your RDEIR for a 45-day public comment period in Calaveras County.**

The California Environmental Quality Act (CEQA) directs the lead agency to notice that a DEIR is available for public comment in the areas affected by the project. (Public Resources Code, 21092, subd. (b)(3); CEQA Guidelines, 15087, subd (a)(1).) This is done by publication in a newspaper, or posting of the property, or direct mail to adjacent landowners. Did Contra Costa County use any of these methods to notify people living in the Calaveras Public Utilities District (CPUD) regarding the availability of the Tassajara Parks Project DEIR and RDEIR? This is an EIR for a development that proposes to use CPUD water, and thus it affects the people in this area. Did Contra Costa County use any of the methods to notify people in neighboring Amador County who also use the Mokelumne River for recreation and consumptive water supplies? We at the CPC did not see any such notice, and only found out about the RDEIR by chance. We were shocked that after all our work on water issues in Calaveras County over the last eight years we did not receive notices of the Tassajara Parks Project DEIR and RDEIR. We also observe that no library in Amador or Calaveras County is listed among the libraries where a hard copy of the RDEIR has been made available for public review. (NOA, 9/29/16, p. 5.) 3

Please re-notice the availability of the RDEIR for a new 45-day public review period, and distribute that notice prominently in Calaveras County and Amador County. Please consider holding an evening hearing in Calaveras County to take input on this RDEIR.

2) To the areas of controversy listed in the EIR, please add that the project proposes to take the water of a Calaveras County utility district to promote economic development outside the district service area and outside of Calaveras County.

An EIR shall contain a brief summary that identifies the areas of controversy and the issues to be resolved. (CEQA Guidelines, sec. 15123.) This is important to ensure that critical environmental issues are not swept under the rug. The executive summary of the RDEIR does not mention the controversy associated with a single development in Contra Costa County seeking to take water from Calaveras Public Utility District to support residential development outside the district and outside Calaveras County. Merely listing "Water Supply" as a potentially controversial issue in the RDEIR is far too vague to alert people to the actual concerns. I assure you that this attempt at an extra-jurisdictional water grab is controversial now, and will be more so when more people in Calaveras County find out about it. Please add this to the list of controversies in the Final EIR. 4

3) Add to the environmental setting discussion of the RDEIR the necessary background information on the water source and the district it is intended to serve. 5

The description of the local and regional environmental setting must be sufficient to provide an understanding of the significant effects of the proposed project and its alternatives. The DEIR must discuss any inconsistencies between the proposed project and existing general plans and regional plans. (CEQA Guidelines, sec. 15125.) An EIR must describe the physical conditions and environmental resources within the project site and in the project vicinity, and evaluate all potential effects on those physical conditions and resources. (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 952 [91 Cal.Rptr.2d 66].) The project area cannot be so narrowly defined that it necessarily eliminates a portion of the affected environmental setting. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.)

5 CONT

The RDEIR indicates that the proposed water source is the Calaveras Public Utility District, but it does not provide the context needed to evaluate the impacts of CPUD serving the proposed development from Schaads Reservoir. **The existing physical setting includes a water delivery system from Schaads Reservoir that is in great disrepair**. The level of disrepair is such that water losses from using the existing system could result in levels of water waste precluded by the California Constitution. Please disclose this in the Final EIR.

6

Furthermore, **the existing setting includes many approved but undeveloped residential lots in the CPUD service area. In addition to these approved lots, both the current and proposed Calaveras County General Plan land use designation maps create capacity for additional commercial, industrial, and residential development in the CPUD service area.** The existing setting needs to identify the numbers of such lots, and the likely water demand from their development. Only then can the impact on Calaveras County associated with the water removed for the Tassajara Parks Project be evaluated. Calaveras County is depending on new development in the CPUD service area to improve the aesthetics of local downtowns, to improve the efficient use of water resources, to finance traffic congestion relief projects, and to reduce the need for people to commute to work, among other environmental benefits. Please amend the Final EIR to include the aforementioned environmental setting information.

7

4) Disclose the improvements needed to the water distribution system from Schaads Reservoir, and their potential impacts.

An accurate and complete project description is necessary to fully evaluate the project's potential environmental impacts. *(El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (App. 3 Dist. 2004) 122 Cal.App.4th 1591.) A description of the project is an indispensable component of a valid environmental impact report under CEQA. (*Western Placer Citizens for an Agricultural and Rural Environment v. County of Placer (App. 3 Dist. 2006)* 144 Cal.App.4th 890.)

8

If the proposed project includes fixing the water distribution system from Schaads Reservoir, please add that to the project description in the Final EIR. If repair of this system would have its own environmental impacts, please disclose those in the Final EIR

5) Identify the costs of the water distribution system, and demonstrate how they are feasible in the context of the project costs as a whole.

Economic changes may be used to evaluate the feasibility of mitigation measure and alternatives. (CEQA Guidelines, sec. 15131, subd. (c).) If the proposed project or one of its mitigation measures includes improvements to the water distribution system from Schaads Reservoir, please identify the costs of these system improvements and demonstrate that the proposed project remains financially feasible. 8 CONT

6) Disclose the resource impact associated with water being transported to the Bay Area for a single use.

The environmental effects that must be considered in an EIR include direct and indirect effects, short and long-term effects, physical changes in an area, potential health and safety problems, changes in ecological systems, changes in population distribution and concentration, changes in land use, effects on public services, and effects on natural resources including water, scenic beauty, etc. (CEQA Guidelines, sec. 15126.2, subd. (a).) A County must be informed of the environmental consequences of tapping a water source to serve future development. (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 373.)

When water is used in Calaveras County, it is also reused and/or returned to the hydrologic system for others to use. Effluent from septic systems is filtered by the soil and returned to groundwater and surface water supplies. Effluent from wastewater treatment plants is used to irrigate golf courses and-rangelands. Water that makes its way back to the hydrologic system is available for others to use for consumptive and non-consumptive uses. The same water may be subject to several uses and reuses as it makes its way down stream. 9

However, when water is shipped directly to the East Bay and used for one residential use before being flushed out to sea, the many interim beneficial uses noted above are lost. To supply these uses takes additional water and additional diversion and storage facilities, with their own environmental impacts. Please disclose this environmental harm in the Final EIR.

7) Evaluate the project's water demand in context of the cumulative demand in the CPUD.

A cumulative impacts analysis must take into account the environmental impacts of not only projects that are already approved, but also proposed projects undergoing environmental review. (San Franciscans for Reasonable Growth v. City and County of San Francisco (1st Dist. 1984) 151 Cal.App.3d 61.) 10

The discussion of cumulative impacts must either "list past, present, and reasonably anticipated future projects producing related or cumulative impacts" or provide "A summary of projections

contained in an adopted general plan or related planning document which described or evaluated regional or areawide conditions." Then it must summarize their "expected environmental effects" and "examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects." (CEQA Guidelines, sec. 15130.)

As noted above, **the cumulative impact of Tassajara Parks and buildout of the existing land use map in the CPUD service area must be evaluated together. This is necessary to determine if CPUD can serve both the Tassajara Parks Project and the development consistent with the Calaveras County General Plan.** Please include this analysis in the Final EIR. 10 CONT

8) The use of EBMUD water conservation solely to service new development is contrary to the position of the MokeWISE environmental stakeholders.

One possible water source for the Tassajara Parks Project is from EBMUD water conservation. Throughout the discussions of water conservation at MokeWISE, the environmental stakeholders repeatedly conditioned their support for water conservation projects on the availability of some of that water for in-stream uses and environmental restoration. As a MokeWISE environmental stakeholder, we at the CPC want Contra Costa County to be aware that requiring a developer to pay for water conservation for only so much water as a development may need, is not consistent with the water conservation principles we advocated at MokeWISE. **We strongly encourage you to condition such projects to fund offsets at 1.5 to 2 times their water demand, so that substantial conservation project yields can be allocated to in-stream uses and environmental restoration.** 11

9) Please respect that Calaveras County is entitled to a brighter future of its own.

The Mokelumne River flows through the public and private forests and rangelands of Amador and Calaveras counties. Nevertheless, one unpleasant artifact of our history is that East Bay MUD's water rights to the Mokelumne River dwarf those of the area of origin counties.

Given this dramatically unequal distribution of water, we could understand how you could come to the conclusion that Calaveras County exists merely as a colony to supply natural resources for the East Bay. Let me assure you that Calaveras County is not your colony. Just like Contra Costa County, Calaveras County is home to good people with their own aspirations for sustainable recreational, agricultural, residential, and economic development. Based upon the aforementioned unequal distribution of the water, we hope that you will understand our perspective, that the good people of Calaveras County have already sacrificed enough water for the benefit of the Bay Area economy. 12

We encourage Contra Costa County to work with the ample supplies of the Contra Costa County Water District and EBMUD to effectively meet the water needs of your future developments. We strongly suggest that you discourage your local developers from seeking to take from

Calaveras County the limited waters we retain for local recreational, agricultural, residential, and economic development. We respect your desire for a brighter future. We ask you to respect ours.

Please send the CPC a copy of the Final EIR and any future CEQA notices to the postal and email addresses above.

12
CONT

Sincerely,

Thomas P. Infusino

Thomas P. Infusino, Facilitator

Calaveras Planning Coalition

cc. Contra Costa County Board of Supervisors

Peter Maurer, Calaveras County Planning Director

Chris Wright, Calaveras County District 2 Supervisor

Jack Garamendi, Calaveras County District 2 Supervisor Elect

Cliff Edson, Calaveras County District 1 Supervisor

Gary Toffaneli, Calaveras County District 1 Supervisor Elect

Peter Martin, Calaveras County Water District

Donna Leatherman, CPUD

Richard Sykes, EBMUD

Felicia Marcus, Chair, State Water Resources Control Board

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Organizations

Calaveras Planning Coalition (CPC) November 11, 2016

Response to CPC-1
The comment is noted. The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR and thus no additional response is required. With regard to water supply issues, please refer to Master Response 1: Water Supply and Distribution.

Response to CPC-2
This comment summarizes some background information concerning the CPC, the proposed Project and recent water related activities. Because this comment does raise any CEQA issues, no further response is required.

Response to CPC-3
The comment is noted. Public notice of the Project was provided consistent with the requirements of CEQA. CEQA requires notice to be given to the last known name and address of all organizations and individuals who have previously requested notice and also by at least one of the following procedures:

- Publication, no fewer times than required by Section 6061 of the Government Code, by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.
- Posting of notice by the lead agency on- and off-site in the area where the project is to be located.
- Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll (California Public Resources Code [PRC] § 21092; 14 California Code of Regulations [CCR] § 15087).

Public notice of the availability of the RDEIR was provided in several different ways. First, notice was given via direct mailing to the last known name and address of all organizations and individuals who have previously requested notice, including all individuals and agencies that previously provided comments on the previous Notice of Preparation and the previous Draft EIR.

Second, notice was directly mailed to owners and occupants of property within 300 feet of the Project Site, as shown on the latest equalized assessment roll. These actions comply with and exceed the minimum CEQA requirements.

In addition, notice was provided via electronic mail to a number of interested entities including environmental groups, public agencies, and interested individuals that have expressed interest in receiving the County's environmental notices generally. Finally, the RDEIR itself was available online on the County's website the first day of the public comment period and hardcopies of the document were available the first day of the public comment period at the following locations:

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Office of District II Supervisor Candace Anderson
309 Diablo Road
Danville, CA 94526

Contra Costa County Library Dougherty Station Branch
17017 Bollinger Canyon Road
San Ramon, CA 94582

San Ramon Library
100 Montgomery Street
San Ramon, CA 94583

Danville Library
400 Front Street
Danville, CA 94526

Pleasant Hill Library
Contra Costa County Main Branch
1750 Oak Park Boulevard
Pleasant Hill, CA 94523

Based on the above, public notice has been provided on the Project in a manner that meets and exceeds the CEQA requirements for public notice on the availability of an EIR.

See also Master Response 1: Water Supply and Distribution, which explains that the Project no longer proposes to utilize water from CPUD, and, therefore, notice was not required to be provided since no such potential impacts on the water supply within the boundaries of CPUD would occur. None of the events triggering further recirculation under CEQA Guidelines Section 15088.5 have occurred, and, therefore, re-noticing and recirculation is not required. Please also refer to Response to EBMUD-32.

Response to CPC-4
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to CPC-5
The description of the environmental setting in Calaveras County is sufficient to provide an understanding of the significant effects of the proposed Project and its alternatives. This is further discussed with respect to conveyance facilities in the Response to Comment CPC-6, and with respect to future water demands in the CPUD service area in the Response to Comment CPC-7.

See also Master Response 1: Water Supply and Distribution, which explains that the Project no longer proposes to utilize water from CPUD.

Response to CPC-6
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to CPC-7
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to CPC-8
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to CPC-9
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to CPC-10
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to CPC-11
The comment is noted. This comment is directed to EBMUD to evaluate what conditions the EBMUD Board of Directors might seek to place on the Project and is not framed as a comment for response by the lead agency in the context of CEQA. The amount of conservation offsets would be established in consultation with EBMUD, and the ultimate use of any conserved water in excess of the proposed Project's water demands would be at the EBMUD Board's discretion. In addition, the Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to CPC-12
The comment is noted. The issue raised by the commenter addresses the merits of the Project and does not raise any issues with the environmental analysis provided in the RDEIR and thus no further response is required. With regard to water supply issues and the Project's anticipated water demand, please refer to Master Response 1: Water Supply and Distribution.

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CALIFORNIA
NATIVE PLANT SOCIETY
East Bay Chapter, www.ebcnps.org
PO Box 5597, Elmwood Station, Berkeley, CA 94705

November 30, 2016

John Oborne, Senior Planner
Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Phone: 925.674.7793
Email: john.oborne@dcd.cccounty.us

Re: Recirculated Draft Environmental Impact Report for the Tassajara Parks Project

Dear Mr. Oborne:

The California Native Plant Society's East Bay Chapter (EBCNPS) appreciates the opportunity to comment on the 2016 *Recirculated Draft Environmental Impact Report for the Tassajara Parks Project*. The California Native Plant Society (CNPS) is a statewide non-profit organization that works to protect California's native plant heritage and preserve it for future generations. The Society's mission is to increase the understanding and appreciation of California's native plants and to preserve them in their natural habitat. We promote native plant appreciation, research, education, and conservation through our 5 statewide programs and 34 regional chapters in California. The East Bay Chapter covers Alameda and Contra Costa Counties and represents some 1000 members. 1

The following comments in response to the R-DEIR are similar to our comments submitted for the earlier DEIR for this same project proposal. However, there are some differences between the two comment letters from our organization, and we would appreciate a response to all comments.

Pursuant to the mission of protecting California's native plant species and habitats, CNPS submits the following comments and recommendations for the R-DEIR:

General Considerations:

The Tassajara Valley is a botanical hot spot, identified as a Botanical Priority Protection Area of the East Bay. The East Bay Chapter of CNPS selected 15 areas within Alameda and Contra Costa Counties that contain high value botanical resources that should be protected. The proposed project overlaps the nearby "East Dublin & Tassajara" BPPA and is thus of concern to EBCNPS. This area contains alkaline soils which support a wide variety of rare and unusual plant species that are worthy of protection.
http://ebcnps.org/publications/guidebook-to-botanical-priority-protection-areas/

1
CONT

The following are our more detailed comments regarding further protections for plants:

Survey for all possible locally rare plants in comprehensive floristic surveys:
We appreciate the special consideration given to special-status plant species occurring on the proposed project site, especially Congdon's tarplant (*Centromadia parryi* ssp *congdonii*), and San Joaquin spearscale (*Extriplex joaquinana*). Inventory in Appendix A, and surveys referenced in *Botanical Assessment of the Kawar Property,* appear to be detailed.

The R-DEIR's Table 3.4-1 appears to miss several special-status plants that our chapter recognizes. Attachment 1 of this comment letter, Table of Locally Rare Plants in Tassajara, shows 40 species with observational records in the Tassajara area. This is not a comprehensive list of plants that should require consideration and protection, but note that some of these plants with records in the area, seem not to have been surveyed for on the Tassajara Projects property.

2

Clarify Plant Survey Dates and Comprehensiveness
We request that the R-DEIR distinguish all of the plant survey dates from all historical reports referenced for this project (plant survey reports assembled by companies like Sycamore Associates LLC, Monks & Associates, etc.), providing a timeline of survey dates. This timeline should also distinguish whether each of these surveys were comprehensive and floristic in nature, or targeted surveys for special-status plant species only. The variable terms used to distinguish the entire project area inclusive of Northern and Southern Sites, versus the project area exactly where the 30-acre urban development is proposed, creates confusion about whether and when plant surveys occurred throughout the "Project site," "Development Envelope," "entire project area" (Appendix C). Without a timeline or other comprehensive description of all plant surveys in one place, it is difficult to demonstrate that a thorough, floristic survey was carried out in all project areas, inclusive of the entire project area on the Northern and Southern Sites.

3

For sufficient analysis of impacts the surveys must be floristic in nature and occur at the correct times. Although survey dates appear to encompass a wide range of months, it is unclear whether

4

important areas of the entire project site acreage (inclusive of Northern and Southern sites) were surveyed during blooming periods for many of these locally rare plants, or whether some surveys during key identification months, only occurred on site-specific and targeted areas. It seems that many surveys since the New Farms proposed project seemed to focus on "mapping of known resources" and the footprint of the planned housing project, located at the 30 acres of the Northern Site's southwest corner. Accounting for only the CNDDB records and Statewide CNPS Inventory records are insufficient for a full biological account in the botanically rich Contra Costa County. We recommend further inclusion of the Rare, Unusual, and Significant Plants database in site descriptions and impact considerations.

4 CONT

Address indirect impacts on vegetation, and define size of buffers around alkali wetlands
The proposed project's "Landscape Development Plan" document shows major impacts surrounding the westernmost mapped existing wetlands, which are supposed to "remain and be protected" along Camino Tassajara. A " buffer area" containing a major roadway entry, a staging area, picnic area, two bathrooms, 22 paved parking spaces, and a "rural transitional planting" of valley oaks, constitutes full recreational development, not protection of this sensitive natural community habitat containing at least two special-status plant species. Such development alters the hydrology of these wetlands. Landscaping such as valley oaks in this area would further degrade the habitat, due to the disparate water needs of the oaks compared to the present special-status species.

5

An alkali wetland is even more sensitive to the condition (pH, salts, pollution, etc.) of its source water than other types of wetlands. Runoff from road and parking lots, roadside plantings, and plumbing installations would inherently change the hydrology of the currently existing wetlands such that the different conditions will predictably lead to this wetland deteriorating and disappearing. A buffer zone around the wetlands should contain no paved surfaces, new plantings, or buildings (such as a bathroom facility), because a buffer zone containing these urban-style facilities does not benefit the preservation of the wetlands under protection. The buffer zone currently proposed needs to be quantifiably discussed in impact assessments, and measurably defined on provided maps. How big is the buffer around this wetland, how and from where is this measured?

6

The R-DEIR documents do not state the proposed extent of buffer around the existing wetlands or the special-status plant species. The establishment of buffers is required in the Contra Costa County General Plan and is standard protocol recommendation amongst any agency with jurisdiction of Waters of the United States. We recommend a minimum of 250 feet buffer surrounding the boundary of the existing wetland (measured from the outside of wetland boundary), fenced and maintained undeveloped except for minimal walking paths and interpretive signs, with no pavement, irrigated landscaping, or structures.

7

Widen buffers to lessen irreversible change to hydrology of valuable alkali wetland
Indirect impact issues also remain in the current R-DEIR and require resolution in order for the public to fully assess the proposed project impacts. A landscape- wide change to this wetlands' hydrology will place, a significant impact. A comprehensive monitoring and adaptive management plan is needed to address the full range of impacts this wetland will suffer, which undoubtedly include: weedy invasions; reduction of downstream rare native *Downingia* pool communities; hydrology changes such as urban pollution runoff and groundwater changes; and other potential impacts which are convoluted in the R-DEIR and thus need clarification to accurately assess, as listed elsewhere in this letter. 8

Changing the hydrology on three sides of a wetland inherently alters the sheet flow hydrology, thus changing the composition of the partnered rare and valuable landscape. The offered Landscape Development Plan does not make it clear whether the "adjacent detention basin," east of the proposed houses and north of the mapped wetlands, overlaps with valuable alkali soils and sensitive natural community resources. How much of the proposed detention basin acreage overlaps and permanently impacts the known and mapped populations of Congdon's tarplant and San Joaquin spearscale? Changing the hydrology of this area will affect not only the wetlands themselves but their associated native plant species that are uniquely adapted to the area's current hydrologic conditions. Replacement of alkali wetlands in this area actually impossible due to the specific soil conditions required for its existence in saline affected clays. We are skeptical of feasibility and potential success of mitigating alkali wetlands. 9

As a general policy, our organization supports impact avoidance over impact- driven mitigation. However, should full avoidance be infeasible and impacts to the alkali wetland prove unavoidable, we recommend protection and mitigation measures that include establishing baseline groundwater measurements using a standard protocol metering system with a regular plan to continue monitoring data to evaluate surface hydrology changes, and flexibility to adapt management plans to preserve as close to baseline measurements as possible. 10 Similarly, we also recommend evaluating a full baseline plant community characterization, with a regular plan to continue monitoring for the optimal health of the impacted native and rare plants and their natural community. 11 We would also favor implementation of education programs for the potentially impacted native and rare plants, conceptually similar to proposed education listed in Impact BIO-1 of the R-DEIR for the California tiger salamander. Education would assist protections enforcement amongst contractors working in the area. An education program on the uniqueness of this habitat would also benefit the public's understanding of the area's importance and assist with long- term protection, and we request implementation of such a plan. 12

Adequately protect alkali habitats and their vegetation, which are rare and specifically valued in Contra Costa County

Plants that grow in alkali soil are specially adapted to their unique hydrologic and chemical environment. Alkaline habitat native plants typically do not bloom with showy displays of color, but their botanical richness is well documented, while also still containing undocumented diversity and insight into California history. This inherent diversity needs to be fully valued in the updated EIR for this project. An expanded description of the value our organization places on such diversity can be found in our publication, *Guidebook to Botanical Priority Protection Areas of the East Bay* (Bartosh, 2010), note especially the section titled East Dublin & Tassajara. Against these odds of invasive grass and thistle invasion, heavy grazing, and localized drainage changes from close by Camino Tassajara, this alkali wetland in the Tassajara Parks Proposed Project Site has continued to persist, and it needs more protections than are currently offered. 13

Identify and assess natural communities and their status

Annual grasslands and alkali wetlands contain valuable habitat for rare and native plants. Three plant communities are listed for the Project Site in the Biological Resources (3.4-2) as non-native annual grassland, riparian woodlands, and wetlands, with the dominant plant community described as grazed, non-native annual grassland. The characterization of all vegetation on the project site should follow widely accepted names and definitions as outlined in the updated second edition of the *Manual of California Vegetation* (MCV, 2009), in order to properly assess existence of plant resources and proposed impacts upon them according to their rarity and value. Other vegetation description codes and methods are less efficient at detecting and characterizing sensitive natural communities and accurate vegetation alliances. 14

Improve currently inadequate discussion of analysis of impacts on special-status plants

Direct impact issues remain in the current R-DEIR and require resolution in order for the public to fully assess the proposed project impacts. Cover data for both Congdon's tarplant and San Joaquin spearscale is vaguely averaged range of numbers of plants per meter, and actual or estimated population count numbers are not provided (3.4-14). In proposed impacted areas, overlap of the proposed development footprint with mapped special plant polygons (Exhibit 3.4-7) is not quantified with acreages or population numbers. Comparative cover between Northern site and Southern site populations of San Joaquin spearscale and Congdon's tarplant is not provided. From the provided information, it is unclear how to calculate and asses the actual impact to the two plant species in the proposed development footprint. It remains possible that proposed impacts to special-status plants on the urban development area, may be impacting the most robust and significant population throughout the project site inclusive of the Northern and Southern sites. Comparison of density and health between populations throughout the project site, is necessary to evaluate true impact in the planned urban development area. 15

Because impacts to Congdon's tarplant and San Joaquin spearscale cannot be properly assessed with the given data, the impact to populations inclusive over the entire Northern and Southern Site acreages are potentially highest at this proposed site, if the population at the proposed housing site was the highest and densest of any on the total property acreage. This would be an unacceptable impact given the plants' rarity. This lack of description is insufficient according to CEQA and needs to be addressed in the updated EIR. 15 CONT

Preserve open space with native plant protections, and define future mitigation plans
We approve of the indication of good faith implied by dedication more than 90% of land use to permanently open space. However, some of the proposed uses listed for protected open space lands at the Southern Site are inconsistent with protecting the rare biological resources there. Agriculture other than rangeland grazing would threaten these resources and should not be included as allowed use. 16

Preliminary proposed mitigation measures listed mention that mitigation for wetlands impacted by this project will include creation of new wetlands (equaling at a minimum the acreage lost due to the project) on site, at the Southern Site portion of the proposed project. The DEIR considers but does not describe what effects the creation of these mitigation wetlands would have on the plant communities and animal habitat of the site where mitigation is proposed. These impacts need to be considered and mitigated for as part of an updated EIR. The Southern Site is considered part of the entire proposed Project Site, and the impact on these Southern Site botanical resources need to been accounted for. 17

Since mitigation on southern site is planned, the full impacts of these planned mitigation actions must be addressed by corresponding CEQA analysis. We also request that the proposed Habitat Management Plan, for wildlife or plants, is presented well before the required 30 days before planned construction start. Our chapter and the public requires time for viewing and comment on this supplementary document to allow opportunity for revision, with significant time before construction begins. 18

We will also take this opportunity to briefly comment on the R-DEIR's Appendix L, the new proposed Memorandum of Understanding (MOU) for the as-named Tassajara Valley Agricultural Enhancement Area. This agreement appears to be in good faith for cooperation and protection, but lacks important language provisions for environmental protections. Agricultural uses would still allow for tremendous potential environmental damage where it does not currently exist, if, for example, current rangeland acreage is converted to vineyard or orchard uses, without the benefit of any environmental review. Zoning for agriculture carries its own set of real dangers for locally rare native plants, and sensitive natural communities. Please include restrictions and recommendations regarding conversions of current land use within this enhancement area. It is important to restrict conversion of rangeland to housing, as well as 19

restrict conversion of land use in this enhancement area to uses not including orchards and vineyards. 19 CONT

Because public agencies are signing this MOU, we would like to know efforts proposed by these agencies to protect environmental degradation of valuable aforementioned sensitive natural communities throughout the enhancement area. Legal enforceability of the MOU as a binding legal document would incentivize continued compliance, favoring open space and environmental protection. Additionally, since the DEIR and R-DEIR for this project were circulated, and after much deliberation, the Contra Costa County Local Agency Formation Commission (LAFCO) has adopted an Agricultural & Open Space Preservation Policy. Review and incorporation of these policy recommendations are necessary to consider as part of this project proposal. 20

Urban Limit Line expansion is not justified

The Urban Limit Line (ULL) exemption still presents an issue with this proposed project. The 30 acre exception to the ULL granted in the General Plan ordinances by a 4 of 5 vote by City Council is meant as an exception when direly required. This project does not fit those requirements. Further, the actual footprint of the project is 50 acres, which is much larger than the development footprint of 30 acres. This larger-than-30-acres footprint is clearly represented in the grading plan. A proposed development envelope which crosses the ULL, and with an impact of more than 30 acres, is not allowable except by public vote on the project. Environmental impacts on these extra 20 acres where activities directly caused by and related to this development, are essentially unmitigated in the R-DEIR. Approving an exemption that diagrams how it will sprawl impacts beyond a 30 acre allowance, would have unacceptable environmental impacts in this project area. 21 22

The Tassajara valley area is valued for an eventual permanently preserved connection with neighboring Alamo Creek Kawar Valley Open Space, Hidden Valley Open Space, Sycamore Valley Open Space, Mount Diablo State Park, and Los Vaqueros watershed. We appreciate the appropriate consideration in the R-DEIR that both the Northern Site and the Southern Site act as a regional wildlife corridors to dedicated open space areas. Will the "Northern Preservation Area" (as named in Appendix C) also receive status for permanent preservation, via deed restriction, easement, or fee title transfer to East Bay Regional Parks District (EBRPD)? 23

When defining future ownership of this area, an undefined term or acronym (GHAD) is used. Please define this term and keep the public updated of option agreements for all acreage. 24

Resolve and directly address County General Plan conflicts with project proposal

The Contra Costa County General Plan outlines the most significant ecological resource areas in the county as defined by three separate categories: (1) areas containing rare, threatened, and 25

endangered species; (2) unique natural areas; and (3) wetlands and marshes (page 8.4 of the Conservation Element). The Tassajara Valley area solidly qualifies as a significant ecological resource within all three categories. The mapped seasonal alkali wetland in the proposed project area is valuable and rare in Contra Costa County, and cited throughout virtually all of Chapter 8 of the county General Plan Conservation Element as a priority conservation area (Table 8.1 Inventory, item 29; and entire document; 2010). The Tassajara Parks Recirculated Draft EIR insufficiently addresses applicability of the project as outlined in the General Plan Conservation Element Goal 8-A to 8-E, and Policy 8-6 to 8-28. This proposed project violates nearly every conservation goal and policy outlined in the General Plan. We find the consistency determination responses insufficient. 25 CONT

It is an insufficient response to simply state that "many of the policies presented in the General Plan are relevant to the analysis," (3.4-41) without defining how the project plans to avoid or resolve each violation of General Plan conservation objectives. Every other discussion under "Applicability to Proposed Project" sections within the 3.4.2 - "Regulatory Framework for Native Wildlife, Fish, and Plants" section, merit more than one sentence addressing the complex relationship of the proposed project to the much-related policy. Table 3.4-2 simply repeats answers to nuanced and different listed Contra Costa County conservation goals. The Contra Costa County General Plan is so inextricably linked to this proposed project, that we demand an improved analysis of their joint applicability. Please also see our objections to all the proposed allowable uses for the "permanently protected and preserved" Southern Site acreage, elsewhere in this comment letter. 26 27

Thus, stating in R-DEIR Section 3-09, Land Use, that the Project is consistent with the General Plan and "would not conflict with any applicable provisions of the Contra Costa General Plan," is misleading and invalid. As is Impact BIO-5, stating that "the Project would not conflict with local policies or ordinances protecting biological resources," and Impact BIO-2, which states, "Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California DFW or USFWS." The CEQA Guidelines, Appendix G Environmental Checklist specifies that land use impacts are significant when the conflict with a land use plan with jurisdiction over the project (in this case, the Contra Costa County General Plan). This is beside our other concerns mentioned in this comment letter, on the actual full acreage impacts of this development footprint existing beyond 30 acres. Significant impacts to Waters of the United States as acknowledged in Impact BIO-3, also is unacceptable under the General Plan. We request a revision to impact conclusions based on these considerations. 28 29 30 31

Also, "Impact BIO-3" states "Project may have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means," and impact compensation is planned at 2:1 creation to impact for a new 0.8 acre 32

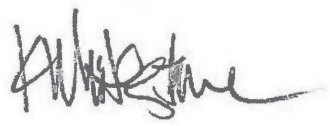
wetland. We appreciate the mitigation consideration, and request that the importance of the wetland in congruence with its sensitive natural community status, along with the fact it contains documented special-status plant species, influence the consideration of an increased mitigation ratio of at least 3:1. This higher ratio of 3:1 is currently proposed in the R-DEIR for California Tiger Salamander and San Joaquin Kit Fox. This type of impact consideration to Congdon's tarplant and San Joaquin spearscale special-status species should be part of Contra Costa County's Conditions of Project Approval, and we look forward to viewing maximum allowable mitigation ratios in the Biological Opinion. 32

Conclusions:

After reviewing the document, EBCNPS finds that R-DEIR for the proposed Tassajara Parks Project inadequately addresses identification of all impacts of this project, as well as inadequately mitigating for acknowledged impacts, as well as failing to uphold the principles of the 2000 General Plan for the County of Contra Costa. The lack of clarity in areas regarding environmental impacts and the overall inadequacies of this document need to be remedied. An updated EIR, or supplemental EIR, document needs to be released so that the impacts of this project can be properly understood and planned for. 33

Thank you for your consideration of the above comments. Please do not hesitate to contact me with questions at conservation@ebcnps.org . Please provide a response to our comments to both the DEIR and R-DEIR in subsequent updated environmental analysis for this proposed project, to avoid future repetition and so that our organization may better understand incorporated accommodations and changes inspired by our suggestions.

Sincerely,



Karen Whitestone
Conservation Analyst
California Native Plant Society, East Bay Chapter

ATTACHMENT 1: TABLE OF LOCALLY RARE PLANTS IN TASSAJARA REGION

East Bay CNPS rarity rank	California rarity rank	Scientific Name	common name	habitat	blooming period
C		*Allium unifolium*	one-leaved onion	Chaparral, Forest	May-Jun
A1	CEQA	*Amaranthus palmeri*	Palmer's amaranth	Miscellaneous	Aug-Nov
B		*Anemopsis californica*	yerba mansa, lizard tail	Miscellaneous Wetlands	Mar-Sep
A2	CEQA	*Atriplex argentea* var. *expansa*	silverscale	Alkali Areas	Jul-Nov
*A2	1B.2 S2(CEQA) G4T2	*Centromadia parryi* subsp. *congdonii*	Congdon's tarplant (formerly *Hemizonia parryi* ssp. *congdonii*)	Alkali Areas, Grassland (Annual or Perennial), Miscellaneous Wetlands	Jun-Oct
C		*Collinsia sparsiflora* var. *collina*	few-flowered blue-eyed Mary	Chaparral, Grassland (Annual or Perennial), Woodland	Mar-Apr
B		*Corethrogyne filaginifolia*	California aster (formerly *Lessingia filaginifolia*)	Grassland (Annual or Perennial), Scrub (Coastal or Interior), Woodland	Jul-Nov
A1	CEQA	*Cuscuta indecora* var. *indecora*	large-seeded dodder, pretty dodder	Miscellaneous	Jun-Nov
A1	CEQA	*Cuscuta occidentalis*	California dodder (formerly *C. californica* var.)	Chaparral, Grassland (Annual or Perennial), Miscellaneous	Mar-Sep

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B		*Downingia pulchella*	flat-faced downingia	Vernal Pool	Apr-Jun
C		*Epilobium densiflorum*	dense-flowered boisduvalia	Freshwater Marsh, Riparian	May-Oct
A1	CEQA	*Eriogonum fasciculatum* var. *foliolosum*	leafy California buckwheat, California buckwheat	Open Dry Slope	-
*A2	CEQA	*Extriplex joaquinana*	San Joaquin spearscale, San Joaquin saltbush	Alkali Areas, Grassland (Annual or Perennial), Miscellaneous Wetlands	Apr-Sep
*A2	1B.1 S1.1(CEQA) G1	*Juglans hindsii*	Northern California black walnut, Northern California black (formerly J. californica var.)	Riparian	Apr-May
B		*Lasthenia glabrata* subsp. *glabrata*	yellow-ray goldfields	Alkali Areas, Vernal Pool	Mar-May
B		*Lepidium latipes*	dwarf peppergrass	Alkali Areas, Vernal Pool	Mar-Jun
A2	CEQA	*Limosella acaulis*	southern mudwort	Miscellaneous Wetlands	May-Oct
B		*Lomatium caruifolium* var. *caruifolium*	caraway-leaved lomatium	Grassland (Annual or Perennial), Vernal Pool, Miscellaneous	Mar-May
B		*Lupinus pachylobus*	big pod lupine	Miscellaneous	Mar-May
A1	CEQA	*Mimulus latidens*	broad-toothed monkeyflower	Vernal Pool, Miscellaneous Wetlands	Apr-Jun
A1	CEQA	*Navarretia leucocephala*	white-flowered navarretia	Vernal Pool	Apr-May

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CONT

		subsp. *leucocephala*			
*A2	1B.1 S2.1? (CEQA) G2?	*Navarretia prostrata*	prostrate vernal pool navarretia	Alkali Areas, Vernal Pool	Apr-Jul
B		*Piperia transversa*	flat spurred piperia, transverse piperia	Open Dry Slope, Forest, Scrub (Coastal or Interior), Woodland	May-Aug
*A1	1A SH(CEQA) GH	*Plagiobothrys glaber*	hairless popcornflower	Alkali Areas, Vernal Pool, Miscellaneous Wetlands	Apr-May
C		*Plagiobothrys stipitatus* var. *stipitatus*	showy Great Valley popcornflower, stipitate allocarya	Alkali Areas, Vernal Pool	Mar-Jun
B		*Plagiobothrys trachycarpus*	rough-nutlet popcornflower, rough-fruited allocarya	Vernal Pool, Miscellaneous	Mar-May
C		*Plantago elongata*	annual coast plantain	Alkali Areas, Coastal Strand, Vernal Pool	Apr-Jun
B		*Pleuropogon californicus* var. *californicus*	semaphore grass	Miscellaneous Wetlands, Riparian	Mar-Jun
B		*Pluchea odorata* var. *odorata*	saltmarsh fleabane	Miscellaneous Wetlands	-
B		*Psilocarphus oregonus*	Oregon woollyheads, Oregon woolly-marbles	Vernal Pool	Mar-Jul
A2	CEQA	*Stachys ajugoides*	bugle hedge nettle	Miscellaneous Wetlands	-

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CONT

B		*Stebbinsoseris heterocarpa*	grassland silverpuffs, derived microseris	Rock, Tallus, Scree, Miscellaneous	Apr-Jun
A2	CEQA	*Trifolium barbigerum*	bearded clover	Miscellaneous	-
A2	CEQA	*Trifolium flavulum*	bull clover (included within T. fucatum)	Alkali Areas, Grassland (Annual or Perennial), Serpentine or Serpentine-derived soils, Miscellaneous Wetlands	-
C		*Trifolium fucatum*	bull clover	Alkali Areas, Grassland (Annual or Perennial), Serpentine or Serpentine-derived soils, Miscellaneous Wetlands	Apr-Jun
A2	CEQA	*Trifolium gambelii*	bull clover (included within T. fucatum)	Alkali Areas, Grassland (Annual or Perennial), Serpentine or Serpentine-derived soils, Miscellaneous Wetlands	-
*A1	1B.2 S2.2? (CEQA) G2?	*Trifolium hydrophilum*	saline clover	Alkali Areas, Salt Marsh	Apr-Jun
A2	CEQA	*Trifolium wormskioldii*	cow clover	Miscellaneous Wetlands	May-Oct
C		*Triglochin scilloides*	flowering-quillwort	Miscellaneous Wetlands	Mar-Oct

34 CONT

A2	CEQA	*Triphysaria versicolor* subsp. *faucibarbata*	smooth owl's-clover	Grassland (Annual or Perennial)	Apr-Jun

34
CONT

Citation:
Lake, Dianne: Rare, Unusual and Significant Plants of Alameda and Contra Costa Counties [web application]. 2016 Berkeley, California: East Bay Chapter of the California Native Plant Society [a non-profit organization]. URL: https://ebcnps.fatcow.com/cgi-bin/ebrare/ebrare.cgi (Accessed: Jul 10, 2016).

California Native Plant Society (CNPS) November 30, 2016

Response to CNPS-1

The commenter's statement—that the Tassajara Valley is a "botanical hot spot" that contains alkaline soils that support a wide variety of rare and unusual plant species that are worthy of protection—is correct. Note that only a portion of the Southern Site, which would be preserved in perpetuity, is located within the East Dublin and Tassajara Botanical Priority Protection Area (BPPA), whereas the Northern Site is not located in the Tassajara BPPA. Project development on the Northern Site would impact only very small areas that support alkaline soils. Monk & Associates Environmental Consultants (M&A) has identified approximately 4.7 acres where Congdon's tarplant occurs, and 1.3 acres where San Joaquin spearscale can be found. While neither species is protected pursuant to the California or Federal Endangered Species Acts, they are recognized as special-status plant species as designated by the CNPS. The loss of habitat that supports these plants would be more than adequately mitigated via the permanent preservation of 175.4 acres of the Southern Site and 97.71 acres of the Northern Site, as further discussed below.

To offset all permanent impacts from development of a portion of the Northern Site, Mitigation Measure BIO-1a of the RDEIR sets forth a detailed protocol for protecting Congdon's tarplant and San Joaquin spearscale populations by means of additional surveys, seed collection, and the preservation and redistribution of salvaged rare plant soils outside of development areas on the Northern Site. The collected seeds of the rare plants would be redistributed in carefully selected plant mitigation areas on the Southern Site. Reestablished plants would be permanently protected and monitored through a reestablishment period of 5 years.

The applicant already owns and proposes to preserve approximately 175.4 acres of the Southern Site in perpetuity via recordation of a Conservation Easement as habitat mitigation. The Conservation Easement would grant rights to a qualified Conservation Organization, in coordination with the resource agencies, which would be endowed to manage this mitigation land in perpetuity. The endowment would be sufficiently large that only interest on the endowment would be spent by the Conservation Organization (i.e., it will be a "non-wasting management endowment"). The Mitigation Land would be managed for the benefit of special-status species. A Habitat Management Plan would be incorporated into the conservation easement deed as an exhibit and would detail management and maintenance goals for the Mitigation Land. In addition, the applicant also proposes to donate and transfer in fee simple the remaining balance of land (except for the 7-acre Fire District portion) on the Southern Site (approximately 433.6 acres) to EBRPD. Finally, approximately 101 acres of the Northern Site would also be dedicated in fee to EBRPD and would be permanently protected via a deed restriction to be preserved and managed in perpetuity. Therefore, in total, the Project proposes to convey a total of 727 acres of land to EBRPD in fee to be preserved and protected in perpetuity. These are significant measures that would preserve and create habitats that support CNPS designated rare plant populations in the Tassajara Valley. This more than compensates for impacts to approximately 4.7 acres where Congdon's tarplant occurs and 1.3 acres where San Joaquin spearscale occurs on the Northern Site, and reduces the significance of impacts to locally important plants to levels regarded as less than significant pursuant to CEQA Guidelines.

Response to CNPS-2
Detailed and complete rare plant surveys were conducted when all rare plants, including those provided by the commenter that do not rise to the level of CEQA-protected species, but whose local populations may be afforded lesser protections, would have been identifiable at the time the rare plant surveys were conducted. Three of the species shown in the Commenter's Attachment 1 (Table of Locally Rare Plants in Tassajara), California aster (*Corethrogyne filaginifolia*), annual coast plantain (*Plantago elongata*), and bull clover (*Trifolium fucatum*) were detected by Sycamore Associates LLC (Sycamore) during special-status plant surveys conducted over the entire Northern and Southern Sites in 2005/2006 or by M&A in 2012. Between the 2005/2006 Sycamore surveys and the 2012 M&A rare plant surveys, rare plant surveys were conducted at times when all special-status plants listed in the CNPS Attachment were evident and identifiable (see Response to Comment CNPS-3).

While the rare plant surveys were conducted at appropriate times, and all sensitive rare plant impact would be mitigated as discussed above, it should be noted that to be regarded a significant impact pursuant to CEQA Guidelines, the project must have a *substantial adverse effect*, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special-status in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Service (USFWS). The County acknowledges that *The Rare, Unusual and Significant Plants of Alameda and Contra Costa Countie*s is a worthy document showing a great body of work by many dedicated Botanists and enthusiasts; however, it is not a formal regulatory document, policy or regional plan. Rather, this plant list typically addresses locally rare *populations* of species that occur elsewhere within California and/or within the United States. Not in any attempt to detract from the importance of the list, but any impacts to species on that list would not be regarded as significant for purposes of CEQA, based on the entire distribution of these species range wide. Regardless, the Project includes mitigation measures that should be regarded as generous and would preserve natural lands that provide suitable conditions for rare plants in eastern Contra Costa County. This more than adequately compensates for impacts to approximately 4.7 acres where Congdon's tarplant occurs, and 1.3 acres where San Joaquin spearscale on the Northern Site.

The RDEIR included revised text for Mitigation Measure BIO-1a to clarify that additional rare plant surveys for special-status plants shall be conducted within the development envelope the year prior to breaking ground on the Project Site (i.e. the development footprint), in compliance with USFWS (1996 and 2002), CDFW (2009), and CNPS (2001) published rare plant survey guidelines. Please see RDEIR Section 3.4, Biological Resources, for confirmation of the revised language.

Response to CNPS-3
Sycamore Botanists, Mr. Christopher Thayer and Ms. Erin McDermott, conducted surveys within the Project Site.

Surveys were conducted on May 26, June 15, June 16, June 22, June 29, September 7, and September 13, 2005, and on March 1, March 9, April 13, and April 18, 2006. Sycamore Biologists, Lynn Hermansen and Kristin Asmus, also conducted surveys over the entirety of the Project Site on March 1, April 13, and April 18, 2006, along with Mr. Thayer and Ms. McDermott. During Sycamore's field surveys, the entire study area was traversed on foot. The study area was surveyed during all seasons necessary to detect and properly identify any potentially occurring special-status plant

species; for instance, March, April, May, June, July, and September are times when special-status and locally significant plants are both evident and identifiable. Survey methods conformed to the California Department of Fish and Game's (CDFG) *Guidelines for Assessing the Effects of Proposed Developments on Rare and Endangered Plants and Plant Communities* (CDFG 2000) as well as the USFWS's *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants* (USFWS 2000).

Special-status plant surveys of the areas where ground disturbance would take place on the Northern Site were conducted by M&A Biologists, Ms. Hope Kingma, Ms. Christy Owens, and Ms. Sarah Lynch, in April, May and July 2012. The M&A surveys followed CDFG (2009), CNPS (2001) and USFWS (2002) published survey guidelines. These guidelines state that special-status plant surveys should be conducted at the proper time of year when special-status and locally significant plants are both evident and identifiable. The guidelines also state that the surveys be floristic in nature with every plant observed identified to species, subspecies, or variety as necessary to determine their rarity status. Finally, these surveys must be conducted in a manner that is consistent with conservation ethics and accepted plant collection and documentation techniques. Following these guidelines, surveys were conducted during the months when special-status plant species from the region are known to be evident and flowering well in advance of any ground-disturbing activities where suitable habitat is present.

In addition, Mitigation Measure BIO-1a calls for rare plant surveys for special-status plants to be conducted the year prior to breaking ground on the project site, in compliance with USFWS (1996 and 2002), CDFW (2009), and CNPS (2001) published rare plant survey guidelines. Surveys would also address locally recognized rare plants as documented by the East Bay Chapter of CNPS publication: Rare, Unusual, and Significant Plants of Alameda and Contra Costa Counties. Data collected would include cover data for both Congdon's tarplant and San Joaquin spearscale (average numbers of plants per meter), and estimated population count numbers.

Response to CNPS-4
The M&A surveys followed CDFG (2009), CNPS (2001) and USFWS (2002) published survey guidelines. These guidelines state that special-status plant surveys should be conducted at the proper time of year when special-status and locally significant plants are both evident and identifiable. The guidelines also state that the surveys be floristic in nature with every plant observed identified to species, subspecies, or variety as necessary to determine their rarity status. Finally, these surveys must be conducted in a manner that is consistent with conservation ethics and accepted plant collection and documentation techniques. Following these guidelines, M&A surveys were conducted during the months when special-status plant species from the region are known to be evident and flowering well in advance of any ground-disturbing activities where suitable habitat is present. This often entails repeated floristic surveys to observe all the potential target species during the appropriate floristic period(s). Further, M&A's 2012 surveys of were conducted at times when all but one of the plants, Palmer's amaranth (*Amaranthus palmeri*), listed in the Commenter's Attachment 1 (Table of Locally Rare Plants in Tassajara) were evident and identifiable. However, vegetatively any plant in the genus *Amaranthus* would have been identifiable, and no plants in this genus were identified on the Northern Site during M&A's surveys. There was only one *Amaranthus* identified on the Southern Site in 2012 and this was confirmed to be *Amaranthus retroflexus*.

In addition to Sycamore's comprehensive surveys of the Project Site in 2005/2006, all areas within the Project Site where ground disturbance would occur were examined in 2012 by M&A walking transects through potential habitat, and by closely examining any existing microhabitats that could potentially support special-status plants. Evaluating the areas where ground disturbance would occur is considered the critical area, since rare plants occurring in preserved portions of both the Northern and Southern Sites would not be adversely impacted by the proposed Project. During all surveys, all plants were identified to the level needed to determine whether they qualify as special-status plants. A list of all vascular plant taxa encountered within the areas of ground disturbance was recorded in the field. Plants that needed further evaluation were collected and keyed in the lab. Final determinations for collected plants were made by keying specimens using standard references such as The *Jepson Manual* (Baldwin 2012). In addition, voucher specimens for both *Extriplex joaquinana* and *Centromadia parryi congdonii* were confirmed by the experts (Elizabeth Zacharias and Bruce Baldwin, respectively) and vouchered at the UC Berkeley herbaria. Additionally, a CNDDB record was filed with the CDFW for each special-status species found on the Project Site. Beyond the initial rare plant surveys of the entire Project Site, rare plant surveys of the areas where ground disturbance would occur were conducted in 2012 and would again be conducted the year prior to construction in order to update prior surveys and conservatively assess potential impacts to special-status plants protected pursuant to CEQA.

To be considered a significant impact pursuant to CEQA, the project must have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special-status *in* local or regional plans, policies, or regulations, or by the CDFW or USFWS. The *Rare, Unusual and Significant Plants of Alameda and Contra Costa Counties* is not a regulatory document, policy or regional plan and typically addresses locally rare *populations* of species that occur elsewhere within California and/or within the United States. Regardless, all impacts to rare plants protected pursuant to CEQA, and that otherwise are regarded as rare would be mitigated through land preservation and redistribution of collected seeds, thereby reducing the significance of impacts to rare plants to levels regarded as less than significant under CEQA.

Response to CNPS-5

As disclosed in the RDEIR, there would be minor impacts to wetlands at the road crossing (W 1 impacts = approximately 0.06 acre). There would be a minimum of a 25-foot setback around the preserved wetlands on the Northern Site. Please note that the wetlands previously received considerable contributions from irrigation runoff from the off-site, adjacent soccer field. Irrigation runoff entered the Northern Site via a culvert under Camino Tassajara; however, the hydrology of the affected wetlands has since been greatly modified. The City of Danville installed artificial grass on the immediately adjacent Mustang Play Fields as an irrigation water conservation measure. With the installation of artificial turf during the drought years, the wetlands on the Project Site no longer receive nuisance water from irrigation. Even with the exceptionally wet winter in 2016–17, it is apparent that the wetland areas on the Northern Site were greatly diminished in the summer of 2017, relative to past years.

It appears that the commenter is mistaken in its assertion that the buffer area would contain the various improvements listed in comment CPS-5. The preserved wetlands that remain since cessation of irrigation water inputs would be protected via an Open Space Preserve established along Camino

Tassajara that would be fenced. No planting of valley oaks would occur within the preserved habitat or its 25-foot setbacks (See Landscaping map). Thus, the Open Space Preserve along Camino Tassajara would preserve the flora and wetlands that remain in this area.

Response to CNPS-6
See response to comment above. There would be a minimum of a 25-foot setback around the formerly delineated and proposed preserved wetlands on the Northern Site. The preserved wetlands would be protected via an Open Space Preserve along Camino Tassajara that would be fenced, and would not contain any paved surfaces, buildings, or other urban development (See Existing/Impacted Wetlands map). No planting of valley oaks is proposed within this 25-foot setback (See Landscaping map). The RWQCB requires complete pre- and post-development BMP plans for all developed surfaces of the Project Site. This means that pre- and post-developed water quality treatment plans must be prepared and implemented as part of the Project. Preconstruction requirements must be consistent with the requirements of the National Pollutant Discharge Elimination System (NPDES). That is, a Stormwater Pollution Prevention Plan (SWPPP) must be developed prior to the time that a site is graded. The SWPPP is a document that describes how a project will prevent pollution during the construction process. The SWPPP details how erosion would be prevented and how sediment would be controlled, as well as how other construction-related pollutants (i.e., construction dust and fluids from construction equipment) would be prevented. In addition, a post construction BMP plan, or a Stormwater Management Plan (SWMP) would be implemented to address stormwater capture and treatment prior to the time it leaves impervious (developed) surfaces that would be constructed within the Northern Site. Implementation of the pre- and post-development BMP plans would ensure that there would be no indirect impacts to the preserved wetlands in the Open Space Preserve. Implementation of these plans would reduce indirect impacts to Preserve wetland areas to levels regarded as less than significant under CEQA.

Response to CNPS-7
There would be a minimum of a 25-foot setback around the formerly delineated wetlands on the Northern Site. The preserved wetlands and rare plants would be protected via an Open Space Preserve along Tassajara Road that would be fenced (see Existing/Impacted Wetlands map). A 250-foot buffer would preclude development of the Northern Site and thus prevent Project development entirely. Regardless, the 250-foot buffer that the commenter recommends is not necessary since implementation of the pre- and post-development BMP plans would ensure that there would be no indirect impacts to the preserved wetlands and rare plant habitats in the Open Space Preserve. All stormwater from the improved areas would be captured and diverted to the retention basin, as shown Sheet TM-7 of the project plans.

Response to CNPS-8
There would be a minimum buffer of 25 feet around the preserved wetlands on the Northern Site. The preserved wetlands would be protected in an Open Space Preserve along Camino Tassajara that will be fenced. No valley oaks would be planted within the buffer. Impacts to wetlands would be minimized by the use of BMPs to protect preserved wetlands and to ensure water quality in wetlands and other waters within the watershed. These practices can include installing orange construction fencing, hay wattles, and other protective measures. During Project construction, a Biological Monitor would be required to be on-site to monitor the integrity of preserved wetlands

and other waters. Further, this Open Space Preserve would be preserved in perpetuity under a deed restriction or otherwise appropriately encumbered. The surrounding development is not anticipated to impact the wetlands within the Open Space Preserve. These wetlands and their associated vegetation have persisted despite the grazing pressure, significant inputs of nuisance irrigation water from the Mustang Play Fields located immediately south of Camino Tassajara and the Northern Site, and other disturbance factors. There are no anticipated significant impacts that would occur to pools/wetlands that support Downingia colonies elsewhere in the Tassajara Valley. Implementation of the pre- and post-development BMP plans would ensure that there would be no detrimental impacts to the preserved wetlands in the Open Space Preserve. Expected hydrology should be much the same under the preserved conditions, except that the nuisance flows that flowed into these preserved wetlands would no longer be a factor.

Response to CNPS-9

Figure 3.4-7 in the RDEIR (Figure 10 of Biological Resource Analysis) indicates the extent to which the development overlaps the mapped rare plant populations. These populations have been preserved to the extent feasible on the Northern Site. In addition, rare plant populations would be preserved within the approximately 175.4-acre Conservation Easement area that would be established on the Southern Site (please review responses to CNPS 1 and 2). As part of proposed mitigation for impacts to rare plants within areas of ground disturbance, seed collection of both species would be conducted prior to disturbing any area that supports Congdon's tarplant or San Joaquin spearscale. These seeds would be dispersed within the mitigation site at opportune germination locations, as detailed in Mitigation Measure BIO-1a.

Congdon's tarplant and San Joaquin spearscale typically grow in valley and foothill grassland on alkaline, clay soils at 300 meters or lower in elevation. Common associates that co-occur on-site with these special-status species are a mix of annual grassland species that demonstrate some amount of mesic influence including Italian ryegrass (*Festuca perennis*), Mediterranean barley (*Hordeum marinum* ssp. *gussoneanum*), spiny cocklebur (*Xanthium spinosum*), hyssop loosestrife (*Lythrum hyssopifolia*), yellow starthistle (*Centaurea solstitialis*) and bristly ox-tongue (*Helminthotheca echioides*). Common halophytic associates of Congdon's tarplant and San Joaquin spearscale include hastate orache (*Atriplex prostrata*), Boccone's sand spurrey (*Spergularia bocconi*), alkali mallow (*Malvella leprosa*) and saltgrass (*Distichlis spicata*) that co-occur with the special-status species on-site. According to the CNDDB (2015), Congdon's tarplant has often been found on the following soil series: Clear Lake Clay, Diablo Clay, Cropley Clay and Conejo Clay Loam, whereas San Joaquin spearscale occurs on high clay, alkaline soils such as Pescadero Clay. Most occurrences of these species occur on flat areas, depressions, swales and low hills where high clay content soils are present (CNDDB 2015). The most suitable special-status plant mitigation area on the Southern Site occurs on Clear Lake Clay (0-2 percent slopes) and Pescadero Clay Loam (0-2 percent slopes). There is approximately 70 acres of potential, suitable special-status plant mitigation areas on the Southern Site. The permanent preservation of this habitat and oversight by a qualified conservation organization more than adequately compensates for impacts to approximately 4.7 acres where Congdon's tarplant occurs, and 1.3 acres where San Joaquin spearscale on the Northern Site.

A Special-status Plant Mitigation Area would be identified in suitable areas within the Southern Site Conservation Easement. Implementation of these mitigation measures compensates for impacts to

approximately 4.7 acres where Congdon's tarplant occurs and 1.3 acres where San Joaquin spearscale occurs on the Northern Site, and reduces the significance of impacts to locally important plants to levels regarded as less than significant pursuant to CEQA Guidelines.

The County also refers the commenter to Mitigation Measure BIO-1a, which involves the scalping and temporary stockpiling of special-status plant species soils, to be distributed after the completing of grading and recontouring, and to accommodate the planting of harvested seeds from the Congdon's tarplant and San Joaquin spearscale.

Response to CNPS-10
Comment noted. Pursuant to CEQA, appropriate mitigation measures are proposed to mitigate impacts to special-status plants, and substantial evidence in the record demonstrates that the mitigation measures identified in the RDEIR would reduce Project-related impacts to wetlands and to rare plants to less-than-significant levels. Please see, for instance, Mitigation Measure BIO-3. Please also see Impact HYD-2 in the RDEIR, which analyzed whether the Project would adversely affect groundwater levels, and concluded that no significant impact to groundwater would occur.

Response to CNPS-11
As detailed in responses to comments above, a number of rare plant surveys have been conducted, and these establish a full baseline plant community characterization. Another survey would be conducted, as detailed in Mitigation Measure BIO-1a, prior to construction in order to update these surveys. A Rare Plant Mitigation and Monitoring Plan would also be required to be prepared, pursuant to Mitigation Measure BIO-1.b, which would specify the designated special-status plant mitigation area on the Southern Site. There is approximately 70 acres of potential, suitable special-status plant mitigation areas on the Southern Site. Suitable special-status plant mitigation areas on the Southern Site are discussed in Mitigation Measure BIO-1. The salvage of the seed bank and the collection of seeds of Congdon's tarplants and San Joaquin spearscale would be distributed at an appropriate time of year (late-fall months) within the designated special-status plant mitigation area on the Southern Site, as further detailed in Mitigation Measure BIO-1a. The applicant's qualified Botanist would be required to conduct annual monitoring of the transplanted populations for a five-year period as outlined in the Rare Plant Mitigation and Monitoring Plan, and would be required to prepare annual monitoring reports to document the success or failure the transplanting effort. These reports would be required to be submitted to Contra Costa County Department of Conservation and CDFW no later than December 1st of each monitoring year.

As noted in Mitigation Measure BIO-1c, prior to disturbing any area that supports Congdon's tarplant or San Joaquin spearscale, a qualified Botanist would be required to collect the seeds or oversee the seed collection of both species by a qualified seed collection crew from a company, such as Pacific Coast Seed Company. A percentage of the collected seed would remain in storage for subsequent, supplemental seeding if deemed necessary, to ensure successful replanting of Congdon's tarplant and San Joaquin spearscale in the special-status plant mitigation areas. The Rare Plant Mitigation and Monitoring Plan would include replanting and redistribution area contingencies in the case that seeding and germination fail to meet success criteria in the first 5 years after the rare plant mitigation plan is implemented.

Response to CNPS-12

As stated in the RDEIR, a training program would be required to be conducted by a Biologist before groundbreaking for all personnel working on the Project to explain the State and Federal Endangered Species Acts, and any endangered species concerns and required protections. This training program would include a discussion of relevant special-status species, their associated habitats and their legal protections, and specific avoidance measures that would be implemented to protect those species. After the site is developed and occupied by residents, signs would be posted around the Open Space Preserve to educate the public regarding the special-status species and wetlands preserved within this Open Space Preserve area.

Response to CNPS-13

As noted in the foregoing responses to comments, multiple surveys of the Northern and Southern Sites were conducted that accounted for rare plants, with these surveys complying with state, federal, and CNPS guidelines. The biological diversity in the Project Site was fully accounted for, and additional studies and tests are unnecessary. With respect to the health of on-site wetlands, there would be a minimum of a 25-foot setback around the preserved wetlands on the Northern Site. The preserved wetlands would be protected via an Open Space Preserve along Tassajara Road that would be fenced. (See Existing/Impacted Wetlands map). As noted, despite heavy grazing and localized drainage changes, including irrigation water contributions into these wetlands for years, this alkali wetland in the Project Site has continued to persist. Keep in mind that in the years prior to and during when field surveys were conducted, the wetland hydrology was substantially supplemented by nuisance water flowing onto the Project Site from off-site soccer fields south of Camino Tassajara with little adverse impacts to these alkaline wetlands. There is no reasonable basis to assume that the alkali habitat would cease to persist within the proposed Open Space Preserve, and in fact in the absence of irrigation runoff, may even become more representative of the alkaline wetlands that occurred before the hydrology was altered by the construction of the Mustang Play Fields in 2006. Soils with a pH level that is higher than 7 are said to be “alkaline.” Irrigation water contributions tend to dilute the alkaline conditions in the soil, allowing freshwater wetland vegetation to out-compete the alkaline tolerant wetland species. To the extent that impacts to on-site wetlands were identified, the RDEIR prescribed a comprehensive plan to mitigate those impacts to less-than-significant levels, as detailed in Mitigation Measure BIO-3. No further mitigations are required.

Response to CNPS-14

While the Manual of California Vegetation (MCV) is an excellent resource for detailed mapping, classification and characterization of vegetation by/for the scientific community, this level of detail is not required in CEQA-level project analyses nor is it necessary in order to assess the suitability of habitat for, or impacts to, special-status plant species which are ascribed to much more broad community types (e.g., valley and foothill grassland per the CNPS Rare Plant Inventory). Essentially, MCV is a standardized classification system that subdivides broad community types into multiple “alliances” dominated by one or more species [e.g., Bromus (*diandrus*, *hordeaceus*)-*Brachypodium distachyon* Semi-Natural Herbaceous Stands or “annual brome grasslands”] that may have no bearing on the microhabitats with which CEQA-protected rare plants are associated. Essentially, it is the on-site field work conducted by seasoned Botanists, which was done as part of the analysis for the RDEIR, which both identifies and evaluates the suitability of habitat for rare and native plants on a site-specific basis as opposed to adherence to a specific naming scheme. Essentially, the field

analysis of the Project Site conducted by M&A Botanists identifies the same plant communities, dominant, subdominant and associated species as well as microhabitats as the MCV does but follows a different naming scheme, one that is more commonly used (for example, by the regulatory agencies) and thus, well-suited for identification of special-status plants protected pursuant to CEQA. While the substantial level of detail as provided in the MCV is acknowledged, it has yet to be integrated into widely used and accessible resources, such as the CNPS' Rare Plant Inventory and the CDFW Natural Diversity Database (RareFind), both resources used by biological consultants and others to determine habitat affinities of special-status plant species that are protected pursuant to CEQA Guidelines, the Federal Endangered Species Act (FESA) and the California Endangered Species Act (CESA).

As such, the experienced Biologists involved in conducting the analyses reflected in the RDEIR determined it was most appropriate to use established references to describe the plant communities, such as the Preliminary Descriptions of the Terrestrial Natural Communities of California (Holland 1986), which have been fully incorporated into all widely accepted industry sources to assess a special-status species' potential for occurrence on the Project Site. Thus, both the broad habitats identified on the Project Site and the microhabitats known to support special-status species (e.g., alkali grassland) were drawn from widely accepted plant references (which have accepted crosswalks included within the MCV) and were incorporated as such into the RDEIR's analysis. There were no omissions of consideration for rare plants nor mischaracterization of plant communities.

Response to CNPS-15
The methods for conducting rare plant surveys and for quantifying the densities and numbers of rare plants meet all scientific and all regulatory agency requirements for conducting these surveys. More importantly, the methods used are consistent with the standards of care required by CEQA. Rare plant surveys were conducted in compliance with USFWS (1996 and 2002), CDFW (2009), and CNPS (2001) published rare plant survey guidelines. Similarly, proposed surveys the year prior to development would also include surveys for locally occurring rare plants as documented by the East Bay Chapter of CNPS published: Rare, Unusual, and Significant Plants of Alameda and Contra Costa Counties.

The level of impact to Congdon's tarplant and San Joaquin spearscale was ascertained from an averaged colony density over a specified acreage of occurrence in square meter increments. This is a very high level of detail, and further analysis is not required or warranted to meet the standards of care required by CEQA. Indeed, the measure of impacts far exceeds the standards of care required to assess the significance of impacts to rare plants from implementation of the proposed Project. Additional rare plant surveys for special-status plants would occur in the year prior to breaking ground on the Project Site, in compliance with USFWS (1996 and 2002), CDFW (2009), and CNPS (2001) published rare plant survey guidelines (see revised Mitigation Measure BIO-1 a). Surveys would also evaluate for locally rare plants as documented by the East Bay Chapter of CNPS published: Rare, Unusual, and Significant Plants of Alameda and Contra Costa Counties. Data collected would include cover data for both Congdon's Tarplant and San Joaquin Spearscale (average numbers of plants per meter), and estimated population count numbers. Project construction would not be permitted to be initiated until all special-status plant surveys are completed and mitigation, if necessary, is implemented.

Upon completion of the additional rare plant surveys, a special-status plant survey report that includes the methods used, survey participants, and findings would be required to be prepared and submitted to the Contra Costa County Department of Conservation and Development, and CDFW. Populations of special-status species shall be avoided to the maximum degree practicable. If avoidance is not practicable, a Rare Plant Mitigation and Monitoring Plan would be required to be prepared and submitted to the County and CDFW for approval prior to the start of ground-disturbing related activities.

The commenter also suggests that the Project may be impacting the "most robust and significant population" of Congdon's tarplant and San Joaquin spearscale on the Northern and Southern Sites. The density of the populations occurring on both sites, including the plant population's ground coverage as a percentage and per square meter, as well as the acreage encompassed by each plant population, was quantified and described in detail in the RDEIR (see, for instance, pages 3.-14 and 3.4-57, and these facts were contemplated in the design of Mitigation Measure BIO-1a. Therefore, the concerns and questions that commenter raises were contemplated and addressed in the RDEIR.

Response to CNPS-16

Comment noted. Agricultural uses such as grazing are currently allowed per the existing agricultural General Plan land use designation and zoning of the Project Site. No changes are proposed by the Project in terms of allowing for more agricultural activities than are currently allowed under the existing General Plan designation and zoning, although the proposed Project's PD zoning does propose to limit/prohibit certain more heavily agricultural uses (as compared to what is currently allowed and as further explained in the proposed PD zoning). Given the nature of the Project Site, lack of irrigation for agricultural uses, and historic agricultural activities, it is assumed that rangeland grazing is likely the only agricultural use that would continue in both preserved areas of the Northern Site and for the Southern Site. It is well recognized by the scientific community and the resource agencies that managed grazing is beneficial to native California grassland species, as it removes the non-native Mediterranean thatch layer, which in the absence of grazing, out-competes herbaceous native species.

Response to CNPS-17

The commenter's assertions are incorrect. The RDEIR evaluated the impacts on the Southern Site associated with wetlands creation: "Permanent impacts would result from grading and construction activities within the Ground Disturbance Areas (which includes associated infrastructure, the earthen hiking trail, and remedial grading required for landslide repairs). In addition, there will be grading activities associated with creation of mitigation wetlands on the Southern Site." Development of the Northern Site would result in permanent impacts to approximately 57.29 acres of upland habitat. Grading activities associated with the creation of mitigation wetlands on the Southern Site would impact approximately 1.18 acres of upland habitat. Wetland creation on the Southern Site is not proposed in an area where rare plant populations have been identified.

Response to CNPS-18

The applicant proposes to preserve approximately 175.4 acres of the Southern Site via a Conservation Easement as habitat mitigation (as approved by USFWS). This provides a 3:1 mitigation ratio to satisfy the resource agency mitigation requirements for impacts to federal and state listed species and their habitats, and other Project-related impacts to special-status species and their

habitats. The Mitigation Land would be protected in perpetuity via a recorded conservation easement or other appropriate legal mechanism that would be managed for the benefit of federally and state listed species and other special-status species. All proposed impacts to both wetlands and rare plants were analyzed in the current CEQA review. A Habitat Management Plan would be incorporated into the conservation easement deed as an exhibit and would detail management and maintenance goals for the Mitigation Land. In addition, the Habitat Management Plan would detail the permanent funding source for the management of the Mitigation Lands and would list the "Allowed and Prohibited Uses" of the conservation easement area. The Habitat Management Plan prepared for the Southern Site would be submitted to the resource agencies (USFWS and CDFW) that are charged with protection of both sensitive and non-sensitive natural resources for their review and approval prior to groundbreaking. Finally, all known effects of the Habitat Management Plan are disclosed in the CEQA review document; again, this management plan merely provides for the management and maintenance of the Mitigation Land, as required and approved by the resource agencies to compensate for impacts to state and federally listed and special-status species. These environmental impacts are identified and evaluated in the RDEIR.

Response to CNPS-19
Please see Master Response 2: Agricultural Preservation Agreement.

Response to CNPS-20
The comments regarding efforts by public agencies to protect the sensitive natural communities in the Tassajara Valley Agricultural Preservation and Enhancement Area are noted. LAFCO requires applications that include prime agricultural, agricultural, and/or open space lands to prepare and submit an Agricultural and Open Space Impact Assessment to ensure that the effects of proposed annexations on agricultural and open space lands are properly taken into account, and to provide further support for the maintenance of agricultural vitality within the County.

Response to CNPS-21
Please refer to Master Response 2, Agricultural Preservation Agreement.

Response to CNPS-22
The issue raised by the commenter primarily addresses the merits of the Project as it relates to the County's interpretation of its own ULL policies. With respect to the potential environmental impacts that could occur outside of the 30-acre Residential Development Area, the RDEIR evaluates all areas of ground disturbance and grading to ensure that all potential environmental impacts are fully evaluated. See, e.g., RDEIR Section 2, Project Description, at pp. 2-34, Grading, as well as Section 3.4, Biological Resources, Impact BIO-1, which makes reference to 50+ acres throughout the impact analysis.

Response to CNPS-23
Please refer to Master Response 2: Agricultural Preservation Agreement.

Response to CNPS-24
The GHAD is defined on page 2-13. Please also see footnote 3 on page 2-13 of the RDEIR regarding option agreements.

Response to CNPS-25
The RDEIR evaluates potential biological resource impacts and documents how all identified biological resource impacts would be reduced to a less than significant level through the implementation of mitigation measures. The implementation of the Agricultural Preservation Agreement also results in further protections for sensitive ecological resources. Please also see Master Response 2: Agricultural Preservation Agreement.

Response to CNPS-26
Table 3.4 2, General Plan Biological Resource Goal and Policy Consistency, includes a discussion of the Project's consistency with each applicable policy outlined in the Contra Costa General Plan. The commenter's opinion that the discussion is not sufficiently detailed is noted. No further response is necessary.

Response to CNPS-27
The commenter's opinion that the discussion in Table 3.4-2 is not sufficiently detailed is noted. As discussed in the RDEIR, the County has determined that all potential impacts to biological habitats and species would be addressed through the implementation of the identified mitigation measures. The commenter's opposition to the County's conclusions regarding consistency with applicable policies is noted. No further response is necessary.

Response to CNPS-28
Comment is noted. The commenter does not further elaborate on how or why this statement is misleading or invalid; therefore, a more detailed response cannot be provided.

Response to CNPS-29
The commenter's opposition to the County's conclusions regarding consistency with applicable policies is noted; no further response is required.

Response to CNPS-30
The commenter's opposition to the County's conclusions regarding impacts to riparian habitats and other sensitive natural communities is noted; no further response is required.

Response to CNPS-31
With respect to the potential environmental impacts that could occur outside of the 30-acre Residential Development Area, the RDEIR evaluates all areas of ground disturbance and grading to ensure that all potential environmental impacts are fully evaluated. See, e.g., RDEIR Section 2, Project Description, at pp. 2-34, Grading, as well as Section 3.4, Biological Resources, Impact BIO-1, which makes reference to 50+ acres throughout the impact analysis.

Response to CNPS-32
The commenter's input regarding the appropriate offset mitigation ratio is noted. The RDEIR includes a baseline mitigation and also notes that the resource agencies may impose additional mitigation requirements during the permitting process. The ultimate offset mitigation ratio and any other requirements imposed by the resource agencies would be binding and would be implemented by the applicant as required in the relevant mitigation measure, which would also be enforceable conditions of approval.

Response to CNPS-33
Please refer to responses CNPS 1-32 for responses to the individual comments raised in the letter.

Response to CNPS-34
The provision of data related to rare plants is noted. The biological resources analysis addressed the Project's potential impacts to all plant and animal species. Please refer to Section 3.4, Biological Resources.

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SAN FRANCISCO SAN JOSE SANTA ROSA WALNUT CREEK

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November 30, 2016

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Dear Mr. Oborne:

RE: Tassajara Parks Project Draft Environmental Impact Report

Thank you for providing the opportunity for Greenbelt Alliance to comment on the Recirculated Draft Environmental Impact Report (RDEIR) for the proposed Tassajara Parks project (Project). 1

Greenbelt Alliance provided comments on the Agency Comments Request, Notice of Preparation (NOP), and Draft Environmental Impact Report (DEIR) for the Project. This letter incorporates by reference those previous comments, and builds on our previous comment as yet more concerning information becomes available to the public. As shown below, the RDEIR continues to fail at appropriately addressing major environmental impacts and neglects to incorporate critical information about the Project.

The RDEIR fails to adequately disclose and describe significant environmental impacts of the Project. Indeed, the RDEIR failed to revise the analysis to incorporate comments, including from Greenbelt Alliance, which demonstrated in the previous DEIR clear violations of the California Environmental Quality Act (CEQA), Contra Costa County policy, and other agency policy. Several DEIR letters demonstrated clear legal precedent showing that the project cannot move forward as planned. Therefore, Contra Costa County cannot legally approve the Project based upon this inadequate RDEIR. 2

Additionally, the RDEIR lacks an adequate project description; many direct and cumulative impacts of the Project remain inadequately described, including impacts on water supply and growth inducement; and the RDEIR inadequately describes the impacts on Contra Costa County's General Plan and growth management policies from the expansion of the County's voter-approved Urban Limit Line (ULL). 3 4 5

Several items deserve particularly close attention in the RDEIR:

RDEIR Fails to Provide an Accurate Project Description

What is perhaps the most egregious mistake in the recirculation of the DEIR is the continued failure to properly characterize the Project in size and scope. This belies a fundamental disingenuousness about the Project and raises key questions as to the legality of the Project under CEQA. 6

As detailed in the Town of Danville's DEIR letter, the Project is misleadingly construed as 30-acre urban development. In total, the Project impacts more than 50 acres, with urban development supported by grading,

roadway improvements, and detention basins that are all part of the Project and directly support the proposed 125 housing units. 6 CONT

Since the Project exceeds the 30-acre threshold for a minor adjustment to the ULL, it fails to conform to Measure L-2006 and thus fails to conform to Contra Costa County policy and voter-approved ULL. Therefore, the Project cannot move forward legally with the given project description. 7

Given this fundamental flaw in the project description, the Project appears destined for a lawsuit. It would be in Contra Costa County's best interest to reject the Project immediately.

RDEIR Fails to Address Growth-Inducing Impacts

The RDEIR does not provide sufficient evidence to conclude that the project will not induce further growth outside of the ULL. The RDEIR continues to neglect basic facts about the Project and fails to analyze the full cumulative impacts of moving the County's ULL. 8

Replicating the inadequacies of the DEIR, the RDEIR categorically fails to address the full range of growth-inducing impacts that moving the ULL and urban services will produce. The Project assumes it will be the final project to use a minor adjustment in the Tassajara Valley, which is wholly inconclusive and misleading to the public. Moreover, the RDEIR falsely assumes that the project will not lead to more widespread use of 30-acre adjustments. In fact, the Project paves the way for further 30-acre adjustments throughout Contra Costa County, essentially providing a blueprint for undermining voter-approved protections for land outside the ULL. 9

The following table shows the parcel count and total amount of acreage susceptible to annexation using 30-acre adjustments in Contra Costa County. In total, Greenbelt Alliance analysis shows that **1,061 parcels** are adjacent or intersecting with the ULL that are unprotected by fee (park) or easement and could be affected by the same ULL expansion strategy as proposed by the Project. The total acreage that could be affected is **9,346 acres**.

	Potential Acreage Susceptible to Annexation	***Parcel Count***
Adjacent to ULL	**3,088**	**295**
Parcels greater than 30 acres*	1,770	59
Parcels less than 30 acres	1,318	236
Intersect with ULL	**6,258**	**766**
Parcels greater than 30 acres*	3,960	131
Parcels less than 30 acres	2,298	635
Grand Total	***9,346***	***1,061***

*For parcels greater than 30 acres, only 30 acres of the greater parcel size are included in the acreage summary. 10

Attachment A provides further mapping evidence of the total potential impacts of using the 30-acre adjustment for this type of sprawl growth outside of the voter-approved ULL. Future CEQA analysis must take this rampant growth scenario into account in a cumulative impacts analysis. The failure to address these massive cumulative impacts is an affront to the will of the voters and a direct violation of Contra Costa County policy.

Tassajara Parks would be the first time the Urban Limit Line has been expanded to facilitate sprawl development in Contra Costa County. This has significant growth inducing precedent, the impacts of which are entirely ignored in the DEIR and RDEIR. If the Project successfully uses the 30-acre policy for sprawl development, and the widespread cumulative impacts are not appropriately addressed, it could undermine the Contra Costa County's General Plan, the voter-approved 65/35 policy, and the will of the voters to protect land outside the ULL from urban development. 11 12 13

RDEIR Fails to Fully Address the Growth Inducing-Impacts of Widening Camino Tassajara

While the RDEIR adjusted the project description and site plan map to include widening of Camino Tassajara as part of the project, the road widening's potentially significant impacts are still entirely absent in key chapters relating to transportation and traffic, air quality, biological resources, among others. 14

The RDEIR does not analyze how it could induce future urban development and traffic along Camino Tassajara inside and outside of the ULL and throughout Contra Costa County Supervisorial Districts II and III. In particular, the RDEIR fails to fully analyze the potential for road widening to make additional urban development outside of the ULL more likely. The RDEIR lacks a cumulative analysis of the widening Camino Tassajara and thus fails to provide any mitigations for these impacts. 15

Additionally, the RDEIR does not analyze how the Project would impact the recently adopted Contra Costa County General Plan Amendment County File #GP16-0006, which reduced the planned 6-lane expansion of Camino Tassajara down to 4-lanes. The RDEIR lacks any analysis of the Project's compliance with this change in the County's general plan, as well as the transportation capacity analysis undertaken by Contra Costa County and the City of Dublin. Given the reduction in transportation capacity, it is unlikely that Camino Tassajara will be able to support additional urban development without significant mitigations for immediate and cumulative impacts. 16

RDEIR Fails to Address Major Concerns with the Provision of Water

New development within the Tassajara Valley could significantly impact local and regional water supplies and the ability of utility districts to provide water to existing service areas. Rather than provide additional clarity for the public, the RDEIR continues to neglect basic facts about the Project, the policy environment, and the supply of water. 17

Shockingly, the RDEIR ignores comments provided by the East Bay Municipal Utility District (EBMUD) that detail how the Project violates core agency policies for the annexation of new service area. Even after six years of agency letters to Contra Costa County describing clear violations of EBMUD policy, the Project (and the previous New Farm project) still violates EBMUD Policies 3.01, 3.05, and 3.08. Rather than providing a detailed analysis of EBMUD policies, the RDEIR entirely neglects to analyze crucial information from the agency that is expected to expand its boundaries to serve the Project. This appears to be part of a long-term concerted effort by the applicant to ignore EBMUD policy and assert pressure on the agency to ensure project approval. This willful dismissal of EBMUD policy should be reason alone for Contra Costa County to reject the Project. 18

What is also astonishing is the fact that the RDEIR is being recirculated, in part, to announce changes in the provision of water a mere 6 months after the release of the DEIR. This major shift in the supply of water and the substituted vague conservation strategy demonstrates the Project's faulty assumptions and how flimsy their water supply evaluation is. The RDEIR fails to analyze the significant, if not catastrophic, impacts from a failure of the vague water conservation policy to function adequately during a severe drought. 19 20

While there are still details emerging about the plans to obtain water from the Calaveras Public Utility District (CPUD), it is clear that residents of Calaveras County are concerned about the local impacts on their water supply amidst California's historic drought. According to a recent article in the Calaveras Enterprise newspaper, "The Calaveras Planning Coalition, a citizen's advocacy group, circulated a letter to the various parties involved with the deal expressing concerns that Calaveras residents were left in the dark on the decision to sell the water" and that "the revised draft Environmental Impact Report failed to provide a cumulative effect report on Calaveras County."[1] The lack of adequate public notification in Calaveras County is deeply concerning. In addition, the lack of cumulative water supply analysis for both Contra Costa and Calaveras counties is another major failure of the RDEIR. 21 22

CPUD is also using data from the applicant to estimate impacts on their water supply. By EBMUD's estimation, the DEIR should have doubled the water demand for the Project to more accurately assess the supply needed over the lifetime of the Project. Given the lack of public information about the provision of water, it is unclear if CPUD is able to supply adequate water for the Project. It's also unclear if CPUD is even aware of the misleading and grossly underestimated demand for water. Regardless of the estimated water demand, the discrepancy between utility districts is very troubling and highlights the need for greater scrutiny of public actions that affect the provision of water during normal and drought conditions, especially cumulative impacts for water transfers between counties. 23 24

A fully revised water supply analysis needs to be made public to Contra Costa County and Calaveras County residents before moving forward with the certification of the EIR. 25

DEIR Fails to Mitigate the Project's Significant Impacts on Air Pollution, Greenhouse Gas Emissions, Vehicle Miles Traveled, and Traffic.

It is astonishing that a project outside of the ULL with significant and unavoidable impacts on air pollution is being considered during an era of heightened scrutiny of climate change, tightening restrictions of greenhouse gases reductions under SB 32, and a recently adopted Contra Costa County Climate Action Plan (CAP). 26

As with agencies and jurisdictions across the State of California, Contra Costa County has the obligation to comply with state law and the targets for reducing greenhouse gas emissions. Since the RDEIR unequivocally states that the Project will have significant and unavoidable impacts on air pollution, greenhouse gas emissions, vehicle miles traveled, and automobile traffic, one would expect rigorous mitigations to offset these impacts. Astonishingly, the RDEIR fails to provide mitigations commensurate with the impacts. Instead, the Project will impose unmitigated costs on the county. Rather than providing emboldened and actionable strategies to combat climate change, the RDEIR assumes that other voters and residents throughout Contra Costa County will make up for the Project's failures. 27

The Project's sprawl development pattern and its inherent negative public health impacts are the antithesis of the climate goals of Contra Costa County enumerated in the CAP, which states that "increasing infill development can also help to alter the long-term patterns of automobile dependence and sprawl that exact high societal costs."[2] 28

Contra Costa County residents should not shoulder the failures of this particular sprawl development. The County should be emboldened to achieve the targets set by state law and their own goals and aspirations set down

[1] "CPUD to sell water for Bay Area project; Critics concerned about impact on future Calaveras customers," Sean P. Thomas, Calaveras Enterprise, November 17, 2016; http://www.calaverasenterprise.com/news/article_18120380-ad26-11e6-9ec6-7704ff76330c.html

[2] Contra Costa County Climate Action Plan, A-27; http://www.co.contra-costa.ca.us/DocumentCenter/View/39791.

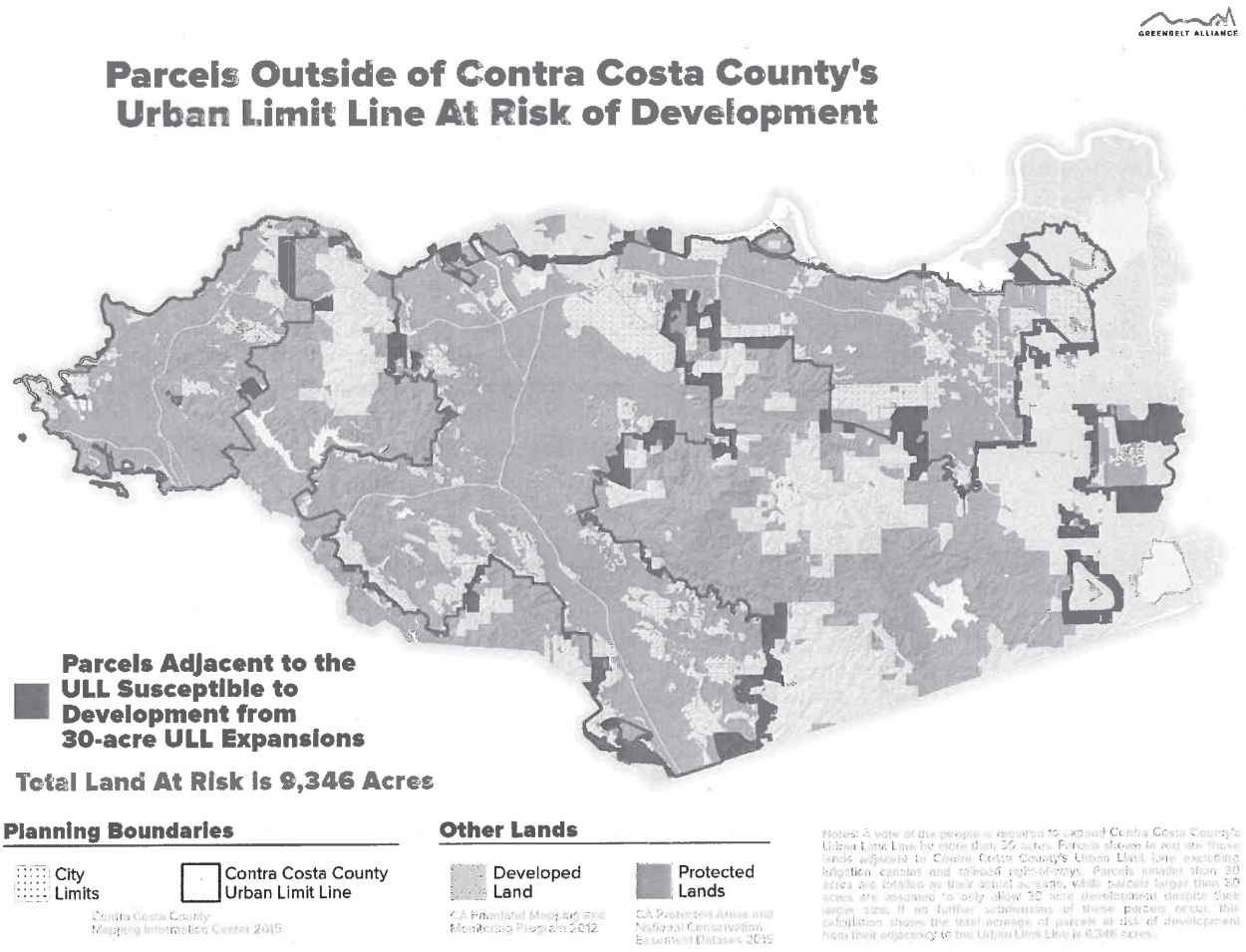
in the recently adopted CAP to prioritize infill development and create better and healthier communities for this generation and the next. 28 CONT

Greenbelt Alliance concludes that this RDEIR is still deeply flawed and fails to analyze the full range of impacts from its precedent-setting sprawl development outside of Contra Costa County's Urban Limit Line. With the RDEIR's multitude of uncertainties and numerous failures to address major concerns about cumulative impacts for Contra Costa County, Calaveras County, and the State of California, we urge an immediate rejection of this legally and environmentally indefensible project. 29

Sincerely,

Joel Devalcourt
East Bay Regional Representative
Greenbelt Alliance
925.932.7776

Attachment A



Greenbelt Alliance (GA)

Response to GA-1
The comment is noted. Please refer to subsequent responses below where the commenter's specific issues are raised.

Response to GA-2
The comment is noted. The issue raised by the commenter addresses the merits of the Project and does not raise any issues with the environmental analysis provided in the RDEIR.

Response to GA-3
The comment is noted. The commenter does not further elaborate on why the Project Description is invalid. Please see Section 2 (Project Description) for a detailed description of the Project.

Response to GA-4
The RDEIR fully evaluates the Project's potential impacts with respect to water supply and growth inducement. For an analysis of potential impacts to water supply, please see RDEIR pp. 3.13-28 through 3.13-33, as well as the detailed analysis set forth in Appendix J (WSE). For an analysis of growth-inducing impacts, see RDEIR Section 6, Other CEQA Considerations, page 6-2, Growth Inducing Impacts. See also Master Response 1: Water Supply and Distribution.

Response to GA-5
Please refer to Master Response 2: Agricultural Preservation Agreement.

Response to GA-6
The RDEIR adequately describes the Project, which would construct 125 single-family homes and related improvements within the 30-acre Residential Development Area. In addition, the RDEIR details the other Project-related improvements that would occur outside of the 30-acre Residential Development Area, with all acreage where grading or other ground disturbance would occur being fully accounted. See, e.g., RDEIR, pp. 2-14, Table 2, Summary of Ground Disturbance Areas. A sewer pump station, grading, various frontage improvements to Camino Tassajara, and minor modifications to portions of a parking lot for the adjacent Tassajara Hills Elementary School (to help remedy existing school parking and circulation problems) would occur, as described more fully in Section 2 (Project Description). Impacts from all such improvements are accounted for and analyzed throughout the RDEIR. The remaining entirety of the Northern Site would be annexed into an existing GHAD for the purpose of appropriately addressing geological hazards. Approximately 101 acres of the Northern Site (known as the Northern Preservation Area) would be conveyed in fee simple to EBRPD, which would ensure that only non-urban uses could be developed outside of the Residential Development Area. On the 616-acre Southern Site, 7 acres have been contingently offered for dedication for potential future use by the San Ramon Valley Fire Protection District (SRVFPD) consistent with the provisions of the ULL. The scope of any such potential future development on this portion of the site is uncertain and would be speculative to include within the RDEIR, but would be subject to additional CEQA review (since a discretionary land use permit from the County would be required as set forth in the proposed PD) and compliance, if and when the SRVFPD accepts the dedication and finalizes plans for a facility at this location.[4] The remaining approximately 609 acres would be permanently preserved for non-urban uses such as parks, recreation, open space, agriculture,

[44] If the Fire District does not ultimately accept this offer of dedication, then the 7 acres would be conveyed in fee to the EBRPD.

grazing, scenic, wetland preservation and creation, and habitat mitigation, with the conveyance of this land in fee to the EBRPD and subject to applicable conservation easement(s) for the benefit of the resource agencies. Any future activities proposed by EBRPD involving discretionary entitlements would be subject to additional CEQA review and compliance, as applicable.

Response to GA-7
The comment is noted. However, because it comments on the merits of the Project but does not raise issues related to environmental impacts under CEQA, no further response is required. For informational purposes, it is noted that, as explained in Response to GA-6, above, the Project's urban improvements (as interpreted under the County's ULL policies) fall entirely within the 30-acre Residential Development Area and therefore qualifies as a minor adjustment to the ULL, subject to the Board of Supervisor's approval of same. Please also refer to Master Response 2: Agricultural Preservation Agreement.

Response to GA-8
Growth-inducing impacts are discussed in RDEIR Section 6, Other CEQA Considerations, on page 6-2. Cumulative impacts are analyzed on pages 4-1 through 4-16. Please refer to Master Response 5: Growth Inducement.

Response to GA-9
Please refer to Response to GA-8, above.

Response to GA-10
Please refer to Master Response 2: Agricultural Preservation Agreement.

Response to GA-11
See Master Response 2: Agricultural Preservation Agreement.

Response to GA-12
The comment is noted. However, because it comments on the merits of the Project but does not raise any issues on the environmental analysis under CEQA, no further response is required. For information purposes, please refer to Response to GA-8, above.

Response to GA-13
The comment is noted. Please refer to Response to GA-8, above. In addition, as explained more fully in Master Response 2: Agricultural Preservation Agreement, the Project's creation of a permanent buffer of land that would be owned and controlled by public agencies would effectively preclude urban development beyond the ULL in those areas bordering the buffer.

Response to GA-14
See Exhibit 2-7 and the related discussion of the proposed road widening on page 2-33 (Section 2, Project Description). The road widening would occur within the footprint of the existing Northern Site area. As described in the RDEIR, Tassajara Road would be widened by approximately 12 feet to accommodate an additional travel lane starting from the southeast property line and continuing approximately 1,800 feet. An approximately 250-foot-long, 4-foot-high retaining wall would be required beyond the roadway edge in order to eliminate any potential impacts to an existing wetland along the north side of Camino Tassajara (See Exhibit 2-7). The remainder of the road widening

would require a conform slope down to the existing grade, all within the proposed 3.18-acre right-of-way dedication, which has been included in the County General Plan (see discussion in RDEIR Section 3.9, Land Use, Population, and Housing, on page 3.9-42). As described on page 6-2 in Section 6, Other CEQA Considerations, subsection 6.2, Growth Inducing Impacts, indirect growth inducing impacts normally involve a new roadway, or extension of utilities. The road widening would not constitute one of these conditions. For these reasons, the proposed road widening is adequately evaluated in RDEIR, and no further analysis is required.

Response to GA-15
For purposes of evaluating trip generation, the analysis focuses on land uses (not roads per se). The EIR studies the impact of the Project, including the road widening. The EIR evaluates the Project's cumulative impacts (see RDEIR Section 3.12, Transportation and Traffic, pp. 3.12-58 through 3.12-73) and includes any required mitigation, as well as evaluates potential growth inducing impacts that could occur as a result of infrastructure expansion (e.g., road widening). For purposes of conducting the traffic analysis, the CCTA travel demand model was used, which is consistent with CCTA procedures and the County's General Plan assumptions for anticipated growth.

Response to GA-16
The CCTA model, which was used in conducting the Project's traffic analysis, assumes four lanes for Camino Tassajara to the west of the Project Site, and two lanes to the east of the Project Site, and thus is consistent with GP#16-0006. The analysis shows that the roadway would operate at acceptable conditions with four lanes.

Response to GA-17
The comment is noted. The comment is conclusory, and appears to be intended to summarize Greenbelt Alliance's overall view of potential water impacts, based on later comments. See Responses to Comments GA-18, -19, -20, -23, and -24. In addition, impacts to water supply are discussed at length in Appendix J (WSE). Please also refer to Master Response 1: Water Supply and Distribution.

Response to GA-18
Application of EBMUD's policies to the proposed Project are addressed in detail in the Responses to Comments EBMUD-2 through EBMUD-9. Please also refer to Master Response 1: Water Supply and Distribution.

The commenter also asserts that the RDEIR discussion of EBMUD policies "appears to be part of a long-term concerted effort by the applicant to ignore EBMUD policy and assert pressure on the agency to ensure project approval." However, the RDEIR expressly recognizes in Section 3.13, Utilities and Services Systems, on page 3.13-1 that the EBMUD policies are applicable, with Project consistency to be determined by the EBMUD Board of Directors, and further confirms that EBMUD Board approval of a water supply agreement is required.

To implement the proposed Project's water strategy (as discussed herein under the heading Water Supply) through an extraterritorial water service agreement or annexation, the applicant would need to demonstrate that the Project's water strategy is consistent with these policies, and to seek and obtain approval from EBMUD's Board and from the LAFCO.

In addition, the commenter is referred to the detailed water supply discussion in Appendix J (WSA), and Master Response 1: Water Supply and Distribution.

Response to GA-19
The comment correctly notes that the RDEIR eliminated consideration of expanded use of recycled water as a water supply, and added consideration of conservation as a source of supply. The decision to eliminate one supply and add the other directly reflect the suggestions provided by EBMUD staff, as is discussed on page 3-1 of the WSE contained in Appendix J. See Section 3:13 (Utilities and Services Systems) and the WSE (Appendix J) for a more detailed analysis of the proposed water supply approach. Please also refer to Master Response 1: Water Supply and Distribution.

Response to GA-20
See detailed responses regarding the adequacy of water supply analysis in Responses to Comments EBMUD-14 and 15 above. In addition, the commenter is referred to the detailed water supply evaluation in Appendix J (WSE). Please also refer to Master Response 1: Water Supply and Distribution (Subsection 5).

Response to GA-21
See Master Response 1: Water Supply and Distribution, which explains that the CPUD option is no longer being pursued. As noted therein, the Project no longer proposes to utilize water from CPUD.

Response to GA-22
See Response to Comment CPC-3 above for a discussion of noticing of the RDEIR. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to GA-23
Impacts to water supply are discussed in Appendix J (WSE). Please also refer to Master Response 1: Water Supply and Distribution.

In preparing this FEIR, the County commissioned a letter report from an independent third party evaluating the potential water demand of 125 units. The letter report is included in Appendix J, and confirms a range of potential water demand from approximately 47.9 AFY to approximately 91.7 AFY (rounded up to a range of 48 to 92 AFY). The range is based on the use of different assumptions for water demand. For instance, the 47.9 AFY estimate was based on the use of planning factors from the EBMUD 2015 Urban Water Management Plan, while the 91.7 AFY estimate was based on the use of historic residential demand provided by EBMUD for their Scenic Pressure Zone (Zone PZ). The demand estimate of 56.3 AFY is based on the use of residential demand factors from the DSRSD, which is located within 5 miles of the Project Site, and entirely within the same climate region. This information provides further support for the existing discussion and analysis, and does not affect the conclusions of the RDEIR.

The County acknowledges that EBMUD would be the purveyor for this Project and also acknowledges EBMUD's purview in setting the estimated demand based on its own historical data. Nevertheless, the County acknowledges the disagreement among experts and the possibility that the Project's water demand could fall somewhere between approximately 48 and 92 AFY. The County would condition the Project such that water conserving features and total demand (as ultimately confirmed in the EBMUD

agreement, as approved by the EBMUD Board) would also be part of the Project's CC&Rs and that penalties could be levied against individual homeowners to help ensure compliance. This is consistent with the method that continues to be successfully used in the Alamo Creek development.

Response to GA-24
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to GA-25
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution as well as Responses to EBMUD Comments 14 and 15, above.

Response to GA-26
The Project is consistent with the County's CAP and includes mitigation to reduce its significant impacts on climate change as described in Impacts AIR-6 and AIR-7 of the RDEIR and in Responses to DAN-18, DAN-21, and DAN-25.

Response to GA-27
As explained in detail in Response Danville-10, the Project exceeded a single significance test for GHG impacts among multiple tests used in the analysis. The Lead Agency must weigh all the evidence when determining that all feasible measures have been applied to reduce significant impacts. As described in the RDEIR, the County's CAP is the primary measure of significance because it provides an analysis based on local conditions in the County. The BAAQMD service population threshold is based on the average emissions for the entire Bay Area and does not take into account different types of development that would be expected in unincorporated areas of the region. Therefore, it should be weighted less than the County's CAP consistency analysis. It is clear from the other analyses accomplished for reduction from business as usual and reductions from 2005 that the Project emission sources are controlled sufficiently to achieve the 2020 target in the Scoping Plan and the County's CAP SB 32 was only recently enacted and the ARB is working now to develop the 2030 Scoping Plan with inventories, and State strategies needed to determine a fair share of reductions from projects in Contra Costa County.

Response to GA-28
The comment is noted. The commenter raises concerns on the merits of the Project, and does not raise any specific issues in connection with the environmental analysis under CEQA; therefore, no further response is required. For informational purposes, please refer to Response to CCLAFCO-8. Although the Plan Bay Area document encourages growth in PDA's, the Plan does not preclude growth in areas outside PDAs (nor would it have the authority to do so since it does not govern local land use decision making). In addition, please see Master Response 2: Agricultural Preservation Agreement for additional information as to how the Project actually would serve to discourage urban sprawl through the creation of a permanent open space buffer of lands owned and controlled by public agencies.

Response to GA-29
Please refer to Responses to GA-1 to GA-28, which provide individual responses for the issued raised.

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SIERRA CLUB
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November 29, 2016

John Oborne, Senior Planner,
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Contra Costa County Board of Supervisors, c/o Clerk of the Board
Via email to: clerkoftheboard@cobcccounty.us

1

RE: Sierra Club Comments on R-DEIR – Tassajara Parks Project
County File Numbers: GP07-0009, RZ09-3212, SD10-9280, DP10-3008

Dear Mr. Oborne, Supervisors,

Sierra Club San Francisco Bay Chapter appreciates the opportunity to submit comments regarding the Recirculated Draft Environmental Impact Report for the Tassajara Parks Project in southeastern Contra Costa County.

We would like to register our strenuous objections to the 'Project Proposal' and the 'Reduced Intensity Alternative', due to significant detrimental impacts in some cases identified by the R-DEIR and in some cases not appropriately identified. We are fully supportive of the 'No Project Alternative', which was characterized as the environmentally superior alternative.

Some beneficial elements are included in the proposal for Tassajara Parks, such as conveyance of much of the southern parcel to the EBRPD and public trail access in the northern parcel. **However these would be vastly overshadowed by the many harmful consequences of full implementation of the project, and of pre-implementation changes to the County Urban Limit Line, the EBMUD Ultimate Service Boundary, the County General Plan and the County Ordinance Code.**

2

Our comments on the Tassajara Parks Project are as follows:

General Plan Amendment

Sierra Club sees innumerable conflicts between the County General Plan's protective goals/policies and the negative impacts to those values that would be caused by this development. **We strongly oppose the change of the parcels' land use designations from Agricultural Lands to Single-family Residential and others.**

3

Rezoning

The proposed change to zoning of the Tassajara Parks parcels from Exclusive Agricultural District to Planned Unit District is inappropriate and harmful to the goals and intentions of county Ordinance Codes. **We urge the County to stand behind its current zoning.**

Modification of the Urban Limit Line

In order to move the Urban Limit Line to include the Tassajara Parks Project 4/5s of the County Board of Supervisors would have to make a specific finding that a condition(s) exists under which the ULL could be altered. The Sierra Club finds NO compelling evidence that any such condition, or conditions, exists. **Given the lack of a significant/substantive safety, economic well-being, public interest reason to do so, we strongly oppose altering the ULL for the benefit of the Tassajara Parks Project**.

3 CONT

Sierra Club's specific comments on the R-DEIR are as follows:

Section 3.3 – Air Quality/Greenhouse Gas Emissions

AIR-1
The project violates the Bay Area Air Quality Management District's 2010 Clean Air Plan, and will likely violate the updated Clean Air Plan the Air District is expected to adopt sometime in 2017. Even after mitigations, the impacts are still significant and unavoidable. The project should, as a standard, be designed to be in compliance with the regional air plan, rather than mitigating significant impacts for compliance.

4

AIR-6
The project will generate, either directly or indirectly, greenhouse gas emissions and is contrary to the Contra Costa County Climate Action Plan. Despite the mitigation measures, which seem to be the bare minimum, the project would result in significant and unavoidable impacts on the environment.

5

AIR-7
The Sierra Club disagrees with the conclusion that the project is consistent with the listed regulatory laws and plans – some of which are mentioned under AIR-1 and AIR-6. Moreover, the impact analysis is outdated due to newly adopted legislative mandates to reduce greenhouse gas emissions beyond the 2020 target.

6

Sierra Club agrees with the findings of significant and unavoidable impacts under AIR-1 and AIR-6 and disagrees with conclusions under AIR-7. As such, we strongly object to the certification of the R-DEIR until these significant impacts to air quality, carbon emissions and climate change can be eliminated or fully mitigated. Related concerns are detailed under Transportation and Traffic- Section 3.12.

7

Section 3.9 - Land Use, Population and Housing

We strongly disagree with proposed amendments to Contra County General Plan and Ordinance Code that would change the zoning and land use designation of the project area from Exclusively Agricultural to Planned Unit Development in the northern portion, and extend the Urban Limit Line, as well as extend EBMUD's Ultimate Service Boundary, all of which would be necessary prerequisites for the implementation of this project.

8

LU-1

The R-DEIR cynically states that the project would not violate county land use policy. But this is only AFTER the proposed amendments and rezoning have occurred. Thus, it declares the project consistent with the General Plan. However, the proposed changes would completely undermine GP intent and violate policies 3-6, 3-7, 3-9 and 3-10. Water supply is not guaranteed and may not be available, the water supply distribution network would have to be extended beyond the current ULL, and extending the current ULL for the benefit of the project means that the project is extending the ULL! 9 10

LU-2

In similar fashion, the project violates the intent of current Zoning Ordinance Codes. 11

LU-4

Annexation into EBMUD's service area would have significant impacts as stated under Section 3.13 - Utilities and Service Systems. 12

LU-6

Cumulative impacts are profound. Surrounding Tassajara Parks is a maze of private parcels that could be developed using the same strategies as are being suggested to gain approval for Tassajara Parks. We can envision, now, various landowners, or amalgamations of landowners, demanding the same "rights" for themselves, that were afforded to the proponents of Tassajara Parks. So, once allowed for the Tassajara Parks Project, the proposed General Plan amendments and Rezoning would inevitably open the door for other projects expecting similar waivers to county policy and codes. Thus, approval of this R-DEIR would set a very damaging precedent leading to additional suburban sprawl, unsustainable demand for increased water supply, more GHG emissions and ongoing erosion of regulatory measures designed to protect open space and agricultural land. Thus, we feel that this development would induce significant – outside the ULL - population growth and otherwise cause further undesirable land use impacts. 13

For the reasons cited above, we strongly disagree with the findings of less than significant impact under LU-1, LU-2, LU-4, LU-6.

Section 3.12 - Transportation and Traffic

Much of this section of the R-DEIR focuses on automobile congestion effects and omits the full range of negative impacts that the Tassajara Parks development would have on the Sustainable Communities Strategy, efforts to reduce Vehicle Miles Traveled (VMT), and implementation of alternative transportation options.

The Bay Area, including Contra Costa County, has a Sustainable Communities Strategy (SCS) that is a part of the ABAG/Regional Transportation Plan adopted in 2013. An important foundation of the Sustainable Communities Strategy is the creation of Priority Development Areas. Contra Costa County has 39 PDAs, but the Tassajara Parks project is not located in one of them. Its location outside of identified PDA areas means that it will be detrimental to the county's efforts to meet ABAG/RTP goals and will have damaging consequences in inducing sprawl and associated transportation impacts. Encouraging traffic-inducing development to the far reaches of the infrastructure network, is in direct conflict with Smart Growth—sound management practices that focus on maximizing efficient use of current/in-place infrastructures, and core first, edge last policies. 14

Another aim of the SCS is to reduce vehicle miles traveled (VMT) of cars and light trucks. The new trips identified under **TRANS-1 TRANS-2, TRANS-3** and **TRANS-5** will have significant unavoidable traffic impacts as stated in the R-DEIR. Our greater concern is that these additional trips will clearly increase overall Vehicle Miles Traveled (VMT), as confirmed in Appendix I, contravening state and regional 15

efforts designed to address GHG reduction and quality of life goals. Although the final regulations may not yet be in full effect, the California Air Resources Board has clear and stated goals regarding VMT:

> *"California must reduce vehicle miles of travel (VMT) – alongside improvements in vehicle and fuel technology – in order to meet our ambitious greenhouse gas (GHG) reduction goals for the transportation sector. Additionally, research and experience demonstrate that VMT-reducing strategies that increase clean, affordable transportation options such as transit, biking, walking and ride sharing, and promote equitable and efficient land uses including infill development, also provide numerous co- benefits, including improved public health outcomes, household cost savings, reduced energy and water consumption, reduced consumption of natural and working lands, and increased access to economic opportunity, as well as the many benefits of cleaner air due to reduced pollution from vehicles. Therefore, strategies to reduce VMT are essential to ensuring both environmental quality and a high quality of life for the future of California."*

15 CONT

Sierra Club disagrees with the conclusion of less than significant impact under **TRANS-8**. The project absolutely does conflict with numerous County General Plan Transportation Goals and Policies, referring to promotion of alternative transportation, and encouragement of bicycle and pedestrian movement.

Objectives of the CCTA's Congestion Management Program, such as "a travel demand element that promotes alternatives to the single-occupant vehicle," would also be undermined. The project description plainly states that the primary mode of transportation to and from Tassajara Parks will be single-occupancy vehicles. There is no mention of any measures to increase public transit access.

16

The additional traffic generated on feeder roads will only worsen conditions for residents who attempt to use bicycles or walk. In terms of meeting General Plan goals for alternative transportation, this development would be major a step backwards. Less than significant impact is an inappropriate finding.

We must conclude that in the area of Transportation and Traffic, the Tassajara Parks R-DEIR is inadequate in addressing unavoidable negatives to traffic as well as closely-related detrimental impacts to the county's Sustainable Communities Strategy, efforts to reduce Vehicle Miles Traveled (VMT), implementation of alternative transportation options, and attempts to stem unsustainable growth.

17

Section 3.13 – Utilities and Service Systems

Under **USS-1** the R-DEIR claims no significant impact will arise from finding a water supply for Tassajara Parks. In fact, a water supply for this development cannot be provided without an unjustifiable change to the East Bay Municipal Utility District's (EBMUD) Ultimate Service Boundary and harmful impacts on the environment and Mokelumne River watershed communities.

18

The Tassajara Parks project area lies outside of the East Bay Municipal Utility District's (EBMUD) Ultimate Service Boundary. Sierra Club strongly objects to the proposed annexation of the residential development into EBMUD's service area. Such a change would threaten the water security of current customers, would violate the agency's principles, and would undermine EBMUD's responsible management of its water supplies and its efforts at good stewardship of the Mokelumne River watershed and partnering work with Foothill communities.

Obligating EBMUD to extend its service area would set an extremely damaging precedent. Adjoining parcels, some of which do not have secure groundwater supplies, would likely demand that the EBMUD service area, distribution system and water supplies be further expanded to serve them as well. Net water demand would increase to the detriment of current customers and the environment.

19

The R-DEIR posits one option for obtaining water supply for Tassajara Parks from Calaveras Public Utility District on the Mokelumne River in the Sierra Foothills. The impacts on that area of any such proposal, direct, as well as cumulative, must be completely examined and discussed in the environmental document. Affected communities in Calaveras County and all the parties involved in the MokeWISE collaborative process need to be given sufficient information and opportunity to participate meaningfully in a proposal that would have very major impacts on their well-being. Failure to provide for this is a serious omission, and the R-DEIR process, studies and findings must be revised to include such impacts. 20

There are multiple other unresolved issues around such a water transfer from the "Upcountry" and the wheeling of it through EBMUD's supply infrastructure that make this anything but a reliable water supply. EBMUD is obligated by state water planning objectives to reduce imports that would further stress the fragile and already depleted SF Bay-Delta. Sierra Club opposes such a transfer of additional water from the Mokelumne River—upstream of the Delta--for purposes of importing it to the Bay Area to supply fundamentally unsustainable urban development. This project would violate Goals 7-G and 7-O of Contra Costa County's own General Plan (under Goal 7 – Public facilities/Services Element) calling for the development of locally controlled supplies and protection of the natural resources of the Delta. 21 22

MORE water, not less, needs to remain in the Mokelumne River eco-system to flow through the SF Bay-Delta, providing numerous environmental benefits to riparian and aquatic habitats, fish, wildlife and humans along the way. The proposed loss of CPUD water from the watershed, the lower river, and the SF Bay-Delta represents a significant impact, which is not mentioned, let alone mitigated, in the R-DEIR. 23

Another option suggests that EBMUD could supply water through conservation offsets funded by the developer. These are vaguely described as consisting of funding for additional conservation or accelerated implementation of conservation steps that are already envisioned as part of EBMUD's WSMP 2040. As such, this does not represent a new water source; it accelerates the future moment at which yet more water will be sought to meet EBMUD's system demands. 24

Nor is there is any mention of aggressive water conservation standards to be met by the development beyond those prescribed by codes and regulations. If these new connections were served by EBMUD the net total demand for water in its service area would <u>permanently</u> increase. Tassajara Parks is located in the hottest, driest part of the East Bay where unsustainable irrigation consumes a high proportion of treated potable water. There is no "new" water available in California to serve this development without inflicting further irreparable harm on the environment. 25 26

Extension of EBMUD's USB and obligating EBMUD to provide the water supply envisioned for Tassajara Parks would set harmful precedents, hurt vulnerable communities and cause damage to environmental resources. We strongly disagree with the finding of less than significant impact under USS-1. 27

<u>Section 3.2 – Agricultural Resources</u>

Necessary changes to the County General Plan and Zoning regulations would result in long term negative effects for important Open Space assets and agricultural uses, many of which have yet to receive proper CEQA examination. The Urban Limit Line should be considered inviolate, the only exception being, of course, a countywide voter-mandated change. The ULL has proven to be the most effective tool in promoting responsible and healthy growth. When 'violated' for presumptive reasons, it portends ongoing and unrelenting problems for Protected Open Space. 28

Sierra Club objects to the fallacy of "protecting" 600 to 700 acres of Open Space that is ALREADY well protected by the ULL. This twisted argument for violating the sound and well established principals of the ULL should be removed. Theoretically, with the proposed line of reasoning, we could end up with a standard for "re-protecting" land outside the growth boundary, that would effectively replace hundreds of acres of those Agricultural/Open Space regions with edge development, in effect undermining the very premise of a strong growth boundary. 29

The project proposal clearly does conflict with existing agricultural uses, and the R-DEIR findings of less than significant impact on agricultural resources are flawed. 30

CONCLUSIONS

The Tassajara Parks Project R-DEIR identifies several areas where significant impacts cannot be fully mitigated. We have cited numerous other areas where the document incorrectly concludes there would be no significant impacts. Contra Costa County's approval of various changes to established code and planning documents that are prerequisite for implementation of this project would set harmful growth precedents and have serious negative impacts on water resources, air and climate change, land use, and transportation. The cumulative detrimental effects of these modifications taken together with the harmful impacts of the project itself would be legion. **We strongly urge the Department of Conservation and Development and the Contra Costa County Board of Supervisors to reject the flawed Tassajara Parks R-DEIR, and to deny approval of the project and all related changes to the ULL, General Plan, and Zoning Ordinance Codes.**

Respectfully submitted on behalf of the Sierra Club San Francisco Bay Chapter,

Jim Blickenstaff

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Mt. Diablo Regional Group
Contact: jpblick@COMCAST.NET

Sonia Diermayer
Water Committee
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Boardmembers, GM Coate, East Bay Municipal Utility District, c/o Secretary of the District, via email to:
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Commissioners, Contra Costa Transportation Authority, c/o Clerk of the Board, via email to:
tgrover@ccta.net

Sierra Club (SC)

Response to SC-1
The commenter provides introductory text. The issue raised by the commenter addresses the merits of the Project and does not raise any issues with the environmental analysis provided in the RDEIR. No further response is required.

Response to SC-2
The comment is noted. However, the comment raises issues in connection with the merits of the Project, and does not raise make any specific comments on the environmental analysis under CEQA; therefore, no further response is required. For informational purposes, please refer to Master Responses 2: Agricultural Preservation Agreement.

Response to SC-3
The comment is noted. The commenter expresses general opposition to the Project and does not raise any issues with the environmental analysis provided in the RDEIR. No further response is required.

Response to SC-4
See Responses to DAN-15 and DAN-20. The Project is inconsistent with a single measure in the Clean Air Plan of the many included in the plan. The BAAQMD Service Population threshold provided a reasonable measure of a project's performance in reducing its GHG emissions footprint. However, every threshold approach has its limitations. The number of jobs and housing units in a project favors high-density mixed use projects, which typically have lower trip generation and smaller living spaces. However, not all development needs to be high-density and mixed use for the State to achieve its target. One flaw in the implementation of the threshold is that it used the Urban Emissions Model (URBEMIS) and now CalEEMod to estimate the mobile source emissions with trip generation rates derived from the Institute of Transportation Engineers (ITE). ITE trip generation counts two-way trips that are appropriate for measuring local impacts on roadways and localized emissions such as carbon monoxide. If used to determine regional impacts such as GHG emissions, it double counts the emissions for the origin and the destination of the trip. This double counting of emissions shows all emissions related to the project but does not fairly allocate responsibility for the emissions. The GHG inventory for which the Service Population threshold is based uses the regional transportation model to estimate VMT calculating origins and destinations separately. For example, for a trip from home to work, the home is the origin and the business is the destination. For the return trip, the business is the origin and the home is the destination. In order to satisfy nexus requirements, responsibility for emissions must be fairly allocated. In this example, the home and the business are both benefiting from the trips and are equally responsible for the impacts; however, when using ITE trip generation rates as the basis of the emission calculation the home and the business are both charged for the same trip. In the case where the home is new and the business is existing, the home and business are still only responsible for their share of the emissions, but the business is part of the existing conditions and does not require a CEQA approval and is not subject to mitigation measures. Just because the business cannot be required to mitigate its share of emissions, this does not mean that the developer of the homes can be required to mitigate the emissions that are the responsibility of others, which violates the essential nexus.

One possible solution to correctly account for the split responsibility and still use CalEEMod and the Service Population threshold is to count half the trips or half the mobile source emissions generated by the project. This concept was used in the San Joaquin Valley Air Pollution Control District's Rule 9510 Indirect Source Review to ensure that mitigation fees would meet nexus requirements. However, here, for purposes of evaluating the Project in the RDEIR, using both incoming and outgoing trips was seen as more conservative and consistent with widely used practice for many years.

The Project mobile source emissions using CalEEMod are 1,349 MT CO_2e. Half of this amount is 675 MT CO_2e. Adding this to other Project sources results in a total 1,143 MT CO_2e and a Service Population of 3.19 MT CO_2e/SP/year compared to the 4.60 MT CO_2e/SP/year threshold and would be less than significant for this criterion. The County accepted the use of the BAAQMD's calculation methodology in the RDEIR and found the impact significant and unavoidable after implementation of mitigation determined to be feasible by the County.

Response to SC-5
The Project can be determined consistent with the County's CAP as discussed in previous responses. The County's CAP foresees continued growth in the County of all types. The County policy is to encourage development in ways that reduce VMT and increase transit use, but does not prohibit altogether development of sites that are not high-density or served by high-quality transit. Discussion of the feasibility of additional measures is provided in Response to DAN-48.

Response to SC-6
The commenter provided no information to support the conclusion that the Project is not consistent with any laws or plans. SB 32 was not adopted at the time the NOP was issued. The only reason the Project has a significant GHG impact is because the emissions exceed the BAAQMD service population threshold. Use of the BAAQMD threshold is a voluntary decision of the County. The thresholds are not currently recommended by BAAQMD, due to a legal challenge on the threshold document. The County could have relied upon consistency with the County's CAP as its significance threshold and would have found the Project to have less than significant impacts on climate change. The measure that is relevant for purposes of CEQA review is whether the Project would interfere with the State achieving targets mandated by AB 32 for 2020. The State is on track to achieving the 2020 target. The gap used to justify the BAAQMD threshold has been filled with the State regulatory program, making the nexus between the service population and GHG emissions overly conservative.

Response to SC-7
The County disagrees with the commenter's conclusion. The RDEIR and additional clarifications and corrections in this response to comments document provide substantial evidence supporting the conclusion that although the Project is consistent with the County's CAP and the AB 32 Scoping Plan, the Project emissions remain above the BAAQMD service population threshold after application of all feasible mitigation measures. See Responses to DAN-31, -32, -34 and -48 regarding the feasibility of additional mitigation measures.

Response to SC-8
The comment is noted. The commenter expresses general opposition to the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR; therefore, no further

response is required. For informational purposes, please see RDEIR, pp. 3.9-26 through 3.9-30 for a discussion of the Project's consistency with applicable General Plan policies and related County Code provisions.

Response to SC-9
As discussed on page 2-41, the rezoning would be a discretionary approval by the County. The proposed rezoning is a part of the Project and thus evaluated in detail throughout the RDEIR. Please see RDEIR pp. 3.9-26 through 3.9-30 for a discussion of the Project's consistency with relevant General Plan and County Code provisions.

Response to SC-10
The consistency of the RDEIR with applicable General Plan policies is discussed under Impact LU-1 from pages 3.9-26 through 3.9-30. As detailed under this analysis, the Project can be determined as consistent with applicable General Plan policies, which reflects a holistic approach to evaluating consistency as required under the law as opposed to elevating some policies over others. In addition, RDEIR, Section 3.13 (Utilities and Services Systems) and the Project's WSE (Appendix J) fully analyze the potential impacts relating to the proposed water supply approach, as required by CEQA. Consistent with applicable laws and regulations, this analysis adheres to the standard established by the legislature, which requires that water supply be evaluated for a 20-year period. See also Response to Comment EBMUD-29, which addresses this issue in greater detail. Please also refer to Master Response 1: Water Supply and Distribution.

The comment that "the water supply distribution network would have to be extended beyond the current ULL" is correct. The basis to extend water service outside of the current ULL is addressed in greater detail in Responses to Comments EBMUD-2 through EBMUD-9. Please also refer to Master Response 2: Agricultural Preservation Agreement.

Response to SC-11
The consistency of the Project with the County's Ordinance Code is discussed under Impact LU-2 on pages 3.9-30 through 3.9-35. As noted in this section at page 3.9-30, when a project entails an amendment to the General Plan or zoning, inconsistency with the existing designation or zoning is an element of the project itself, which then necessitates a legislative policy decision by the agency and does not signify a potential environmental effect. As such, the proposed rezoning would serve as a self-mitigating aspect of the Project that would serve to correct any potential conflict that might otherwise exist.

Response to SC-12
See Master Response 1: Water Supply and Distribution. See also Response to EBMUD Comment 3 (regarding proposed annexation to EBMUD). See also Response to Sierra Club Comment 18.

Response to SC-13
Please refer to Master Response 5: Growth Inducement.

Response to SC-14
The comment is noted. This comment raises concerns regarding the merits of the Project, and does not identify any specific issues related to the environmental analysis under CEQA; therefore, no further response is required. For informational purposes, please see Master Response 2: Agricultural

Preservation Agreement, as well as the RDEIR's discussion of the Project's consistency with the relevant County General Plan policies relating to the ULL and discouragement of sprawl. In addition, please see Response to CCLAFCO-8, regarding discussion of Plan Bay Area. The RDEIR adequately evaluates the Project's potential environmental impacts, including those relating to traffic, noise, air quality, GHG emissions, and land use. The traffic impact analysis was conducted consistent with applicable local agency, CCTA and Caltrans accepted policies and standards. Where any significant impacts were identified, the RDEIR identifies feasible mitigation measures.

Regarding analysis of the Project's VMT, as of the time of commencement of environmental review for the Project, OPR had not yet adopted a significance threshold. Because there was not an accepted impact criteria at the time of issuance of the NOP, the EIR was not required to include this analysis. The RDEIR (Section 3.12, Transportation and Traffic, pp. 3.12.18, 19) explains this then-current regulatory context and also notes that for informational purposes, a VMT analysis was conducted in any event (see TIA, p. 84 and Response to Caltrans-9).

Response to SC-15
See Response SC-14 above.

Response to SC-16
The Project's TIA evaluates all potential traffic impacts utilizing applicable significance thresholds and employing standard protocols of the County and CCTA. The RDEIR identifies existing and planned transit facilities and pedestrian/bicycle facilities, as well as the applicable regulatory framework. With respect to the specific impact referenced by the commenter, the applicable threshold focuses on whether the Project would conflict with applicable plans, policies, or programs supporting alternative transportation. The RDEIR explains the basis for the less than significant conclusion, including, among other things, the installation of additional sidewalks and crosswalks; the preservation of an existing Class II bike lane; and an extension of a Class II bike lane along the Project frontage; coupled with the anticipated annexation of the Project into the existing County Service Area (CSA) for transit. The EIR notes that transit stops do not exist near the Project Site and therefore in order to be conservative, no trip reductions were assumed. See also Responses to Caltrans-8 and Caltrans-9.

Response to SC-17
The comment is noted. To the extent the commenter sets forth an opinion on the merits of the Project, this does not raise any specific environmental issues under CEQA, no further response is required. For informational purposes, see Master Response 3: Transportation Analysis.

Response to SC-18
RDEIR, Section 3.13 (Utilities and Services Systems) and the Project's WSE (Appendix J) fully analyze the potential impacts relating to the proposed water supply approach, as required by CEQA. See detailed Responses to Comments EBMUD-14 and -15 above for additional information regarding the basis for proposed water supply approach. As noted therein, the proposed Project would be supported by new water supplies through the acceleration or expansion of water conservation measures, and so would not adversely impact water security of current customers. Rather, to the extent that an offset ratio is applied for water conservation, water security of current customers would be enhanced. See also Master Response 1: Water Supply and Distribution.

This comment also asserts that EBMUD annexing the proposed Project would "violate the agency's [EBMUD's] principles." In fact, the proposed Project would not and cannot legally proceed without approval by the EBMUD Board of Directors (which would necessarily take place after the County, as the lead agency and local land use authority, takes action on the Project). As part of that process, the EBMUD Board of Directors would be required to exercise its discretion and determine the Project's consistency with applicable EBMUD policies. This concept is presented in the RDEIR on page 3.13-1, which states that "the Project applicant seeks to have EBMUD play a role in implementing the Project's water strategy," and that "any such arrangement would require approval of the EBMUD's Board of Directors . . ."

The comment also asserts that EBMUD annexing the proposed Project would undermine "responsible management of its water supplies and its efforts at good stewardship of the Mokelumne River watershed and partnering work with Foothill communities." It is assumed that the basis for this assertion is reflected in comments numbered SC-19 through SC-27, and that the responses to those responses address this assertion.

Response to SC-19
Consideration by the EBMUD Board of Directors would necessarily occur after the County, as the environmental analysis provided in the RDEIR lead agency and local land use authority, takes action. As noted in Response to Comment SC-18, the EBMUD Board has the authority to approve or reject the proposed water supply approach in its discretion. The CEQA documentation recognizes this notion; i.e., that implementation of the proposed Project would require EBMUD's voluntary cooperation. As presented in the RDEIR on page 3.13-1, "the Project applicant seeks to have EBMUD play a role in implementing the Project's water strategy," and that "any such arrangement would require approval of the EBMUD's Board of Directors . . ." See also Master Response 1: Water Supply and Distribution.

The comment also asserts that EBMUD extending its service area to serve the Project would "set an extremely damaging precedent" that could lead to EBMUD extending water service to adjoining parcels "which do not have secure groundwater supplies" which would be "to the detriment of current customers and the environment." As noted above, EBMUD is not obligated to extend such service, and a discretionary decision by EBMUD's Board of Directors to extend service to the proposed Project (via new water supplies facilitated by the Project), would not provide a precedent that could in any way obligate EBMUD to provide service to new lands. Any such future requests would be judged on their own merits, and would be entirely within the discretion of EBMUD's Board of Directors. See also Response to Comment EBMUD-13 regarding growth-inducing impacts.

Response to SC-20
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to SC-21
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to SC-22
Water Service Goal 7-H from the County's General Plan Public Facilities and Services Element only "encourages" the "development of locally controlled supplies to meet the growth needs of the County." Nevertheless, the Project intends to procure a local water supply (via EBMUD) that meets the goals and objectives of the Project in accordance with all applicable laws, regulations, and policies. See Section 3.13, Utilities and Service Systems, for a detailed discussion relating to water supply. The CPUD option is no longer being pursued. See also Master Response 1: Water Supply and Distribution.

Policy 7-O pertains to the implementation of existing Urban Water Management Plans, which the Project would support and otherwise be consistent with through the use of EBMUD water. For more details on Urban Water Management Plans, please review the information provided by DWR on its website at http://www.water.ca.gov/urbanwatermanagement/.

Response to SC-23
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to SC-24
Impacts to water supply are discussed in Appendix J (WSE). Please also refer to Master Response 1: Water Supply and Distribution.

Response to SC-25
The estimated water demand of the proposed Project would meet conservation standards as required by applicable codes and regulations. Use of more aggressive water conservation is not considered, in part reflecting an intent to make a conservative evaluation of water demands.

The comment asserts that service from EBMUD would permanently increase the "net total demand for water" in the EBMUD service area. The comment does not define the term "net total demand," but it is noted that the proposed Project would provide new water supply that would more than offset the estimated new water demands. Use of a conservative water demand estimate is intended to address the concern that actual water demands are being understated. See also Response to EBMUD-14; Master Response 1: Water Supply and Distribution.

Response to SC-26
The comment also includes conclusory statements about the availability of "new" water, and the infliction of "further irreparable harm on the environment" without citation. The RDEIR evaluated potential environmental impacts based on substantial evidence, and no further response is required. Please also refer to Master Response 1: Water Supply and Distribution, as well as response to EBMUD-14, which contain additional information explaining how the Project would facilitate the acceleration or expansion of conservation measures in the EBMUD service area to free up sufficient water to meet the Project's estimated demand, as that demand is ultimately confirmed by the EBMUD Board of Directors.

Response to SC-27
The comment is noted. This comment is a summary of conclusions drawn based on discussion associated with the prior comments, which have been addressed above (see, e.g., Responses to EBMUD Comments 13 above).

Response to SC-28
Please refer to Master Response 2: Agricultural Preservation Agreement.

Response to SC-29
Please refer to Master Response 5: Growth Inducement.

Response to SC-30
As discussed in Section 3.2, Agricultural Resources, the Project would not result in the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. The Project is proposing to rezone to P-1, which would allow for continued agricultural use of the Southern Site and the remainder of the Northern Site. Furthermore, as referenced under Section 3.2.3, Contra Costa County's Right to Farm Ordinance, would protect continued agricultural uses on the site and adjoining properties from nuisance complaints. Please also refer to page 3.9-17 of the RDEIR Zoning Designations.

Response to SC-31
The comment is noted. Please refer to Responses to SC-4 through SC-30 above with regard to the issues raising environmental concerns under CEQA cited by commenter. The remainder of these comments express general opposition to the Project and do not raise any issues with the environmental analysis provided in the RDEIR, therefore, no further response is required.

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John Oborne

From: Maryann Cella <maryann.cella@gmail.com>
Sent: Monday, November 14, 2016 2:17 PM
To: John Oborne
Subject: COMMENTS ON THE TASSAJARA PARKS EIR

Dear Mr. Oborne:

Please enter this entire email into the comment record for the draft EIR for the Tassajara Parks proposed 125-unit development **outside** the voter-approved Urban Limit Line in the Camino Tassajara Valley on Agricultural-designated land . The comments are on behalf of SOS-Danville Group, a local grassroots organization concerned with protecting the greater Danville-area community from the negative impacts resulting from development on lands planned for agricultural or general open space uses in the applicable general plans. 1

Thank you for the opportunity to comment on the Tassajara Parks draft EIR. **BY RETURN EMAIL, PLEASE ACKNOWLEDGE YOUR TIMELY RECEIPT OF THESE COMMENTS.**

Sincerely,
Maryann Cella, Esq.
SOS-Danville Group

1. THE EIR IS LEGALLY FLAWED BECAUSE THERE IS NO COUNT OF BICYCLISTS THAT USE THE ROADS AFFECTED BY THE PROJECT'S INCREASED CAR TRAFFIC AND THERE IS NO ANALYSIS OF THE NEGATIVE IMPACT OF THAT INCREASED CAR TRAFFIC ON THE SAFETY OF THOSE BICYCLISTS. Clearly, bicyclist safety will be eroded by the large increase in traffic generated by the project. Were such an analysis to be done, we believe there would be a significant negative impact from that traffic requiring mitigation before the project could be approved. 2

Camino Tassajara and its tributary roads, such as High and Road, are popular routes for bicyclists. Blackhawk Road, which begins just west of the Tassajara Parks project at its intersection with Camino Tassajara, is a highly popular route for bicyclists going to and from Mt. Diablo Scenic Boulevard for the ride up Mt. Diablo. Please see the letter from the Diablo Community Services District below, discussing the more than 80,000 bicyclist trips per year in the Diablo Road/Blackhawk Road corridor associated with entry to and exit from Mt. Diablo State Park via Mt. Diablo Scenic Blvd. **There are no bicyclist lanes on Camino Tassajara**

from about Finley Road east. Also, there are no bicyclist lanes on Blackhawk Road from Camino Tassajara to Mt. Diablo Scenic Blvd., nor are there bicycle lanes on the incredibly dangerous stretch of Diablo Road from Blackhawk Road to Green Valley Road. The Tassajara Parks project will increase car traffic on all those roads and intersections, which are now extremely dangerous for bicyclists, and therefore make those roads even more dangerous for bicyclists. 2 CONT

A recent unpublished CA Court of Appeal ruling held that the Town of Danville's EIR for the proposed 69+ unit SummerHill Homes development off of Blackhawk Road was legally flawed because it failed to analyze the project's projected traffic on the safety of the many tens of thousands of bicyclists that travel the Blackhawk/Diablo Road corridor every year (SOS-Danville Group v. Town of Danville, 2015 decision). **Likewise, the draft EIR for the Tassajara Parks project is legally flawed because there is no such analysis of bicyclist safety negative impacts from the project's increased car traffic.** 3

In recent years, several bicyclists have been killed on roads where car traffic will be increased by the Tassajara Parks development. In addition, there have been numerous bicyclist accidents on those roads and countless near-misses. The EIR failed to discuss any of that. Accordingly, the EIR needs to be revised and recirculated to discuss negative bicyclist safety impacts from Tassajara Park's increased car traffic. Mitigation needs to be a condition of any approval of the project. 4

Please see the articles below from several publications discussing **some** of those bicyclist fatalities and the dangerous conditions for bicyclists on Contra Costa County roads. 5

2. THE EIR IS LEGALLY FLAWED BECAUSE THERE IS NO ANALYSIS OF THE NEGATIVE IMPACT OF THE INCREASED CAR TRAFFIC FROM THE PROJECT ON EXISTING SEVERE CONGESTION AT THE BLACKHAWK ROAD/MT. DIABLO SCENIC BLVD. INTERSECTION; THE DIABLO ROAD/GREEN VALLEY INTERSECTION; THE GREEN VALLEY ROAD/BLEMER ROAD INTERSECTION; THE GREEN VALLEY ROAD/STONE VALLEY ROAD INTERSECTION; THE DIABLO ROAD/EL CERRO BLVD. INTERSECTION; AND THE 680 INTERSECTIONS WITH EL CERRO BLVD. AND DIABLO ROAD. 6

The 2013 EIR for the SummerHill Homes 69+ unit development off Blackhawk Road found a SIGNIFICANT NEGATIVE IMPACT ON TRAFFIC CONGESTION at the Mt. Diablo Blvd./Blackhawk Road intersection due to the projected traffic from that development. Moreover, the

approvals of that development and its EIR (since vacated pursuant to court order) included a "Statement of Overriding Considerations" due to the fact that that SIGNIFICANT NEGATIVE IMPACT could not be mitigated through any condition of approval. 6 CONT

Car traffic on Blackhawk Road and all the intersections described above will increase because of the Tassajara Parks development. The high school for the development is Monte Vista High School, on Stone Valley Road. Getting to high school will require that the students and their parents and caregivers travel from Camino Tassajara to Blackhawk Road through the Mt. Diablo Scenic intersection onto Diablo Road, then through the Green Valley intersection onto Green Valley Road, through the Blemer and Cameo intersections to the Stone Valley intersection and onto Stone Valley Road. Some students may also end up going to Green Valley Elementary and Los Cerros Middle School, traveling the same route. Moreover, Blackhawk/Diablo Road corridor will be used for many Tassajara Parks residents to get to Highway 680 North, and to downtown Danville. 7

It is likely that the Tassajara Parks development could cause a significant negative impact, either by itself or cumulatively, on the above-mentioned roads and intersections. **Accordingly, the EIR needs to be revised and recirculated to discuss those impacts and offer mitigation.** 8

3. THE "MEMORANDUM OF UNDERSTANDING" PROPOSED IN THE EIR IS NOT A "PRESERVATION AGREEMENT" AS REQUIRED TO BE BY THE COUNTY'S URBAN LIMIT LINE LAW IN ORDER FOR THE PROJECT TO PROCEED.

The MOU by its very name is not a "Preservation Agreement". Nothing is in fact to be preserved through the MOU and it creates no enforceable obligations for its signatories to preserve any land. Rather, the MOU is just an illegal attempt to circumvent the actual requirements of the ULL law. The MOU should be discarded. In fact, the MOU is a wolf in sheep's clothing which will be used to approve endless projects extending the ULL in the Tassajara Valley until suburban sprawl covers every last potentially developable acre there. 9

A. EAST BAY TIMES ARTICLE

Bicyclist killed near Dublin

By Roman Gokhman and Sophia Kazmi
PUBLISHED: June 26, 2009 at 6:55 pm | UPDATED: August 15, 2016 at 5:11 pm

DUBLIN — A bicyclist died Friday afternoon in unincorporated Contra Costa County after he was struck by a car and pinned underneath.

The driver of the car then suffered major injuries when she swerved into oncoming traffic and was struck by a sport utility vehicle, according to the California Highway Patrol.

The collisions occurred at 5:10 p.m. in the 8600 block of Camino Tassajara, just 50 feet from the Alameda County line.

The adult bicyclist was headed south on the road when he was struck from behind by a green Honda Accord, driven by a 40-year-old Cupertino woman.

According to CHP Lt. Lorraine Krolosky, the woman lost control of her car, pinning the bicyclist underneath as she swerved into oncoming traffic and was struck by a northbound gray Range Rover.

The bicyclist, who was not immediately identified, was declared dead at the scene.

The woman suffered major injuries and was taken by helicopter to John Muir Medical Center in Walnut Creek. The Range Rover driver, a Danville man in his 30s, had minor injuries.

The cause of the accident remains under investigation, though alcohol and drugs are not believed to be a factor, according to the CHP.

"I witnessed the man flying vertically through the air," said John Kincaid, who was driving northbound two vehicles behind the SUV and the saw the collision in front of him. "The driver of the Range Rover looked stunned."

He said the victim appeared to be in his 30s.

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There was substantial commute traffic in both directions at the time, Kincaid said. Several people stopped and began calling 9-1-1. Some people received a busy signal, he said, and it took about 20 minutes for medical personnel to arrive.

Some people, anxious to get through the crash site, kicked pieces of the victim's bicycle out of the way as they passed, Kincaid said.

The crumpled bicycle was found in the southbound lane when a reporter arrived at the scene. The Honda's air bags had deployed and there was major front end damage to the car which faced the Range Rover in the northbound lane.

Reach Roman Gokhman at 925-945-4780 or rgokhman@bayareanewsgroup.com

B. SFGATE ARTICLE

More details from crash that killed cyclist near Livermore

By Erin Allday

Updated 1:32 pm, Monday, December 29, 2014

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CONT

- 155

A cyclist who was killed in a crash near Livermore on Saturday morning was a 40-year-old high school administrator from Dublin who was wearing a helmet when he flipped off his bicycle and landed on the opposite side of the road, where he was hit by a truck, according to the California Highway Patrol.

Herman Shum was identified by his colleagues as the victim in the crash. Shum had recently announced that he would be leaving St. Mary's College High School in Berkeley, where he was assistant principal and where he'd worked for 11 years. He was set to take over as principal at Justin-Siena High School in Napa at the start of the 2015 school year.

Shum was pronounced dead at the scene of the crash on Highland Road west of Manning Road. Several cyclists who were riding with Shum stopped to help him but his injuries were too severe, CHP investigators said.

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RELATED STORIES

- Cyclist killed, 2 hurt in Contra Costa crash
- Cyclist deaths on the rise in California
- Mission driver hits cyclist, keeps going

About 50 to 60 cyclists, riding at about 30 miles an hour, were traveling in a pack at the time of the incident at about 9:45 a.m. Two cyclists at the front of the group collided, and CHP investigators believe the victim, who was riding in the middle of the group, may have been trying to avoid that crash when he veered left and into the opposite, westbound lane of Highland.

Meanwhile, a 56-year-old Livermore man driving a 2001 Peterbilt truck west on Highland saw the collision at the front of the pack and veered right to try to avoid it, according to the CHP. The truck hit the cyclist, who had landed in the middle of the road.

The truck driver was not injured. One other cyclist suffered major injuries and another had minor injuries, according to the CHP.

Erin Allday is a San Francisco Chronicle staff writer. E-mail: eallday@sfchronicle.com



Photo: Google Maps

Herman Shum was pronounced dead at the scene of the crash on Highland Road west of Manning Road.

C. BIKE ACCIDENT TRACKER ARTICLE

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CONT

Danger Lurks for Cyclists on Contra Costa County's Open Roads

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About the Author



Zusha Elinson

Transportation, Pulse of the Bay, Marijuana

Tags Usedin this Story

- Bike Accident Tracker 9
- Bike Crashes 4

Twenty-three cyclists killed in five years; no Bay Area county had more deaths
by Zusha Elinson — June 1, 2011, 4:32 p.m.1



GO TO THE DATA APP

With its open roads and pleasant suburbs, Contra Costa County might seem like a paradise for bicycle riders.

In fact, the county's bike commuters, of which there are few, are among the most likely to get into an accident in the Bay Area. From 2005 through 2009, 23 cyclists died in Contra Costa County. It's tied with Santa Clara County for the most cyclist deaths, but the death rate in Contra Costa County is higher.

The findings come from The Bay Citizen's new Bike Accident Tracker, which maps and analyzes every bike accident reported to the California Highway Patrol from 2005 through 2009. Municipalities are required to report every crash its police officers write up to the CHP.

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The Tracker reveals that some suburban areas like Contra Costa County are actually more dangerous for cyclists that crowded urban areas like San Francisco. San Francisco saw nine bike fatalities over the same five-year period, and the city's bike commuters were the least likely to get into a crash in the Bay Area.

The 23 deaths took place all across Contra Costa County. The city of Concord had the most -- with four. Concord also had the most bike crashes in the county with 277 and had the seventh most of any Bay Area city over the five-year period.

One common thread in the fatal accidents is that all but four appear to have occurred on roads without bike lanes, according the Bike Accident Tracker. The most well-known case was Mark Pendleton, a 49-year-old cyclist and electrician, who was hit and killed in 2008 by a truck that drifted across the center line on a windy road with no bike lanes.

The driver, Harold Brown -- who sped off, fixed and then hid his truck -- is set to plead guilty on June 15 to felony hit and run causing death and will be sentenced to two years in state prison, according to the district attorney and Brown's lawyer.

While Contra Costa County does have long off-road trails for bikes, the roads were laid out with one vehicle in mind: the car. In Concord, for instance, Clayton Road, a six-lane thoroughfare separated by a median has a little sign on the side of the road that reads "Bike Route." There is no sign of a bike lane – or space to ride a bike.

"They have a higher percentage of roads designed during the automobile era," said Dave Campbell, who works for the East Bay Bicycle Coalition. "They're bigger, they're wider -- and the cars are going at higher speeds."

Neela Kale bikes six miles to work every day from San Pablo to downtown Pinole where she works as the director of religious education at St. Joseph Catholic Parish. Before moving to Contra Costa County, she lived in Alameda County where, she said, biking was easier on the nerves.

"In Berkeley and Oakland, the biking facilities are better: there's more bike lanes and signs, and I feel the drivers are much more aware of bikers," said Kale. "Here I get harassed, I get yelled at, people honk at me – they're just not as hospitable to cyclists."

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CONT

Contra Costa County cyclists were found to be at fault in 55 percent of the crashes in the county, although bikers often complain that police reports are biased toward car drivers.

In the 23 fatal accidents, 17 were found to be at fault of the cyclists by police. Three were caused by drunk cyclists, according to police reports. Five were caused by right of way violations. In the fatal accidents where drivers were found to be at fault, three were because of improper turning and two were because of unsafe speed.

An unlikely advocate for bikers has emerged in Contra Costa County: the district attorney Mark Peterson. Peterson has been pushing for more bike lanes – and ratcheting up the punishment for drivers who hit cyclists.

In the Pendleton case, the former district attorney, Robert Kochly, was leaning toward a deal that would have meant probation for the hit-and-run driver Brown, said Assistant District Attorney Bryan Tierney. But Peterson directed Tierney to pursue a harsher punishment.

Peterson is a cyclist himself – and he said he'd rather prevent bike crashes before he has to try the cases in court where juries could be sympathetic to drivers who hit bikers. "People think there for the grace of God go I," he said.

Peterson also charged Hung Guo with vehicular manslaughter with gross negligence, after she allegedly hit and killed John Greaves, a 44-year-old tri-athlete, on Camino Tassajara in 2009. Guo has pleaded not guilty.

Here's a ranking of accident rates per bike commuter. Click on column headers to sort:

Related Articles

- Bikes

  Suburbs, Men Are Biggest Threats to Bay Area Cyclists

  May 31, 20119

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CONT

D. DIABLO COMMUNITY SERVICES DISTRICT LETTER

P.O. BOX 321

DIABLO, CA 94528

February 2, 2015

Honorable Candace Andersen

County Supervisor, District 2

309 Diablo Road
Danville, CA 94526

Honorable Mary Piepho

County Supervisor, District 3

3361 Walnut Boulevard, Suite 140
Brentwood, CA 94513

Dear Supervisors Andersen and Piepho:

We are writing to ask for your assistance in rectifying the intolerably dangerous conditions for motorists, bicyclists, and pedestrians in the community of Diablo and in the Diablo Road corridor between Green Valley Road and Mt. Diablo Scenic Blvd. Each of your districts covers a portion of that area.

As you are likely aware, Diablo Road is the gateway to Mt. Diablo State Park for many tens of thousands of bicyclists every year and the number is steadily increasing. In fact, we believe that the number of bicyclists traveling Diablo Road to get to the Park during the 2012/13 fiscal year was probably upwards of 40,000 judging from the following California State Park System Statistical Reports, found at http://www.parks.ca.gov/?page_id=23308 .

California State Park System Statistical Reports

Fiscal Year of Report	Free Day Use (entering through the north or the south entrances)
2012/13	79,824 (page 21)
2011/12	74,631 "

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CONT

2010/11	66,965 (page 21)
2009/10	63,845 "
2008/09	53,918 "
2007/08	47,693 "

The "Free Day Use" statistical category is almost exclusively bicycle traffic, rather than pedestrian; very few pedestrians enter the park through either of the two entrance gates because those gates are too far from residential neighborhoods and parking areas outside the park.

Bicycle counts for 2014 (which haven't yet been officially published) received from Park Superintendent Ryen Goering (Contra Solano Sector Superintendent, California State Parks) indicate that more than half of the counted bicyclists typically enter through the south gate. So that implies that for 2012/2013, over 40,000 cyclists entered the Park through the south gate. And that number is clearly an underestimate, according to Superintendent Goering and Supervising Ranger Dan Stefanisko, because many cyclists enter the gates when due to understaffing there is no ranger there to count them.

Based on our observations and information from local bicyclists, we believe that the vast majority of those 40,000+ bicyclists using the South Gate entrance travel east along Diablo Road from Green Valley Road to Mt. Diablo Scenic Blvd. to get there, rather than traveling from Blackhawk Road west to Mt. Diablo Scenic. Most of those bicyclists then travel west along Diablo Road as they return home. In addition some of the bicyclists entering through the north gate park entrance subsequently exit the park through the south

gate and then travel west along Diablo Road. So it is reasonable to believe that in fiscal year 2012/2013 there were over 80,000 bicyclist trips on Diablo Road associated with travel to and from Mt. Diablo State Park.

Furthermore, there has been a tremendous 67% increase in bicyclists between fiscal years 2007/2008 and 2012/2013, and there is every reason to believe the numbers will continue to grow.

The tremendous numbers of bicyclists coupled with the high volumes of traffic on Diablo Road have created an intolerably dangerous situation. Although Diablo Road west of Green Valley Road has safe bicycle lanes in both directions, the 1 ½ mile stretch of Diablo Road east of Green Valley Road to Mt. Diablo Scenic Blvd. ("the stretch") is narrow, winding, upslope, with virtually no shoulders, limited sightlines, and no bicycle lanes. The stretch is extremely congested with thousands of vehicles every day. Despite the double yellow lines the length of the stretch, many

vehicles' drivers break the law as they veer across the lines to avoid the cyclists. Others slow to well below the speed limit, creating back-ups and the risk of rear-end collisions as they travel behind the cyclists.

Danville police accidents reports (attached) show that from 2005 until March 2014 there were 6 bicyclist accidents along the portion of the stretch patrolled by the Danville police. The number of accidents is undoubtedly much higher because of the following: 1. the reports do not even identify whether there was a car or bike involved in many of accidents; and 2. the reports do not include accidents reported to the California Highway Patrol, which patrols the one-mile northern portion of the stretch that is contiguous to the community of Diablo. Most importantly, the accident reports do not reflect the conditions on the dangerous portion of Diablo Road contiguous to the community of Diablo because almost all of the bicyclists avoid that portion by cutting through the community of Diablo. But for the cutting through, there would be far more---and likely some fatal--- bicycle accidents. 10 CONT

That diversion of cyclists does not solve the problem of public safety, however. The influx of cyclists into Diablo has merely has moved the dangerous condition from Diablo Road onto Diablo's even more constrained residential streets. As you know, Diablo's streets are narrow and winding, have no sidewalks or even shoulders, and have limited sight lines. Moreover, Diablo's streets serve both as streets and walkways: pedestrians; baby strollers; young children on bicycles; dogs on leashes; automobiles; golf carts; and construction, service, and delivery vehicles travelling to and from the Diablo Country Club, the Diablo Post Office, and Diablo homes all compete for space.

The influx of ever more cyclists cutting through Diablo's residential streets to avoid dangerous Diablo Road has caused those streets to become unsafe for their intended users as well as for the cut-through cyclists themselves. The Diablo Community Services District, the government agency responsible for roads and public safety within the community of Diablo, is obligated to act to resolve this dangerous condition on our roads.

We believe that the best way to solve the safety issues within our community is to address the dangerous situation on Diablo Road. The solution is obvious: if Diablo Road were made safe for cyclists and vehicles by adding bicycle lanes, cyclists would no longer need to divert into Diablo.

Accomplishing the goal of building safe Diablo Road bicycle lanes will require the cooperation and efforts of many interested parties. And prior to building the lanes, there are likely other

short-term, inexpensive ways that could quickly improve safety somewhat along Diablo Road (for example, adding "Share the Road" signs; lowering speed limits and enforcing them; improving some of the sightlines).

The time to start is now, before there are any more accidents, and before someone is killed. As you undoubtedly know, just a few days ago a cyclist was killed along Highland Road in unincorporated Contra Costa County. Like Diablo Road, the dangers there were well-known, but no one acted to improve safety on the road in time to prevent the cyclist's death.

As a first step toward improving safety, we ask that your offices convene a Diablo Road Public Safety Task Force, comprised of representatives from your offices, the Town of Danville, Diablo Community Services District, Diablo Property Owners' Association, Valley Spokesmen (a local bicyclist organization), Bike East Bay (an East Bay bicycle advocacy group), Save Mt. Diablo, Contra Costa Transportation Authority, and any other interested HOAs or groups. The long-term goal of the Task Force would be to obtain funding for the designing and building of safe bicycle lanes between Green Valley Road and Mt. Diablo Scenic Blvd. In the near term, the goal would be to make the road safer through inexpensive means such as road signs, lower speed limits, and more police enforcement until the lanes are built.

Thank you so much for your consideration of our request. We look forward to hearing from you at your earliest convenience and, we hope, working with members of the proposed Task Force to address these urgent public safety matters.

Sincerely,

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CONT

Raymond F. Brant

President

Diablo Community Services District

Attachment: Danville Police Accident Reports, 2005- March 2014

Cc with attachment: Christopher Liddicoat, President, Diablo Property Owners' Association

Joseph Calabrigo, Manager, Town of Danville

Eric Niles, Head of School, Athenian School

Cc with attachment: Nancy Nagramada, Athenian School

Marcus Van Raalte, President, Valley Spokesmen Bicycle Touring Club

William Well, Danville Liaison, Valley Spokesmen Bicycle Touring Club

Bonnie Powers, Past President, Valley Spokesmen Bicycle Touring Club

Renee Rivera, Executive Director, Bike East Bay

David Campbell, Advocacy Director, Bike East Bay

Alan Kalin, President, Mount Diablo Cyclists

Ronald Brown, Executive Director, Save Mt. Diablo

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CONT

SOS Danville (SOS-D)

Response to SOS-D-1
The commenter provides introductory text; no response is required.

Response to SOS-D-2
Please see Master Response 3: Transportation Analysis, which addresses the applicable impact relating to the Project's potential conflicts with adopted plans, policies, and programs supporting alternative transportation. See also RDEIR's discussion of Impact TRANS-6, which evaluates whether the Project would substantially increase hazards because of a design feature or incompatible uses. The concerns raised by the commenter in terms of conducting bike counts do not constitute a required analysis under CEQA. Nevertheless, for informational purposes, the RDEIR includes this data. Specifically, bike counts were collected at all study intersections for peak periods and are included in Appendix I (Traffic Impact Study). Five years of crash data were reviewed and included in the RDEIR. Materials regarding documented crash reports are reviewed below. Bike lanes along Camino Tassajara are consistent with Caltrans and County requirements from a design perspective, and the Project would not negatively impact these requirements; rather, the Project would preserve existing bike lanes and extend a bike lane to further facilitate safe bicycle connections. For purposes of a conservative analysis, the Project's TIA did not take any reductions for bike trips or people walking to the school. Field review did not indicate that any substantial bike congestion occurs or specific bike safety concerns, and it is not anticipated the Project would significantly modify these existing conditions.

Moreover, increased traffic does not necessarily increase accidents. Accidents are typically a measure by million vehicle miles traveled, so an increase in vehicles may constitute a similar or lower rate of accidents. Safety is typically impacted by design deficiencies and design elements and driver behavior. The bicycle facilities that were studied meet design standards and any proposed bicycle facilities would similarly be constructed to required standards. Driver behavior is not controlled by the Project applicant or the addition of Project traffic.

The commenter expresses a general opinion on the lack of existing bike lanes but does not raise any specific issues of the environmental analysis under CEQA; therefore, no further response is necessary. For informational purposes, it is noted that this is an existing deficiency, and the additional Project trips to the referenced roads are expected to be very low (see, e.g., RDEIR, at pp. 3.12-88 and 3.12-89). Further, the Project would preserve an existing Class II bike lane and would extend a Class II bike lane along the Project frontage, thereby encouraging the safe travel of bicyclists on these roads.

Response to SOS-D-3
See Response to SOS-D-2.

Response to SOS-D-4
See Response to SOS-D-2. Crash data provided by SOS Danville is reviewed below.

Response to SOS-D-5
See Response to SOS-D-2.

Response to SOS-D-6
Study intersections and segments were determined using Caltrans TIS Guidelines, Contra Costa County Transportation Authority technical procedures and other applicable standards and requirements. Relevant agencies were consulted during the study intersection/segment selection process. Project trips anticipated to travel to these locations are below thresholds set by agencies discussed above. This Mt. Diablo Boulevard/Blackhawk Road intersection was not selected for study, because Project trips traveling to it were not anticipated to meet or exceed the 50-trip threshold.

Response to SOS-D-7
The most up to date CCTA TDM at the time of issuance of the NOP was used to estimate near term and cumulative traffic volumes. All developments assumed in the model were therefore included in the Tassajara Parks TIA.

Response to SOS-D-8
See Response to SOS-D-7.

Response to SOS-D-9
Please refer to Master Response 2: Agricultural Preservation Agreement.

Response to SOS-D-10
The comments are noted. Please refer to Response to SOS-D-7.



Tassajara Valley Preservation Association
Tassajaravalleypa.org
Tassajaravalleypa.gl@gmail.com

Tassajara Office
1111 Country Lane
Pleasanton, CA 94588
925-786-6973
925-200-4574

November 21, 2016

Mr. John Oborne
Senior Planner
Department of Conservation and Development
Contra Costa County
30 Muir Road
Martinez, CA 94553

Re: Tassajara Parks: County File #'s GP07-0009, etc.

1

Dear Mr. Oborne:

The following comments are submitted in addition to our previous comments on the subject DEIR and the Recirculated DEIR for the Tassajara Parks Project (the "Project")

MOU

The proposed Appendix L, the Memorandum of Understanding ("MOU"), purported purpose is to create a Preservation Agreement consistent with Contra Costa County's General Plan and the County's ordinance code, Section 821.018. We object to this MOU for the following reasons:

1. The so called Preservation Agreement provides no protection for the so called Agricultural Enhancement Area ("AEA") of the Tassajara Valley ("TV") that is not already protected by the County's ULL. No additional protections or preservations for TV are created by this MOU. The sole purpose of this MOU is to allow the developer to gain approval for his development by the very transparent means of a) setting aside 500 acres of his property for "non-urban uses...." and b), writing a check for $4 million to the County. Since the 500 acres is already protected from non-urban uses by means of the County's ULL and current zoning, the MOU language provides nothing of value. Second, the $4 million check to the county for "agricultural enhancement" is nothing more than a quid pro quo bribe for approval of the Project.

2. Since the ULL has been in effect, only one project has been approved using the 30-acre exception to the requirement for voter approval of changes to the ULL. This project was the Bay Point Waterfront project and moved approximately 21 acres of undeveloped open space and commercial recreation lands inside the ULL in exchange for moving 22 acres of regional parkland outside the ULL. Approval for the change was possible because the Board adopted the finding specified in Measure L that the change would more accurately reflect topographical characteristics or legal boundaries. The TP development does not qualify under that exception and does not qualify under any other exception. 2

3. We do not believe that the MOU in its current form constitutes a preservation agreement. The lands within the AEA are already fully preserved for agriculture and open space uses and protected from future urban development to the maximum extent feasible under the County's current ULL, General Plan, and County ordinances. Thus the preservation provisions are simply illusory. The MOU is simply a flawed device to gain approval of this specific project. 3

4. In any event, the MOU's preservation provisions are not enforceable in any meaningful way. Any of the cities or the county can withdraw from or violate the MOU's terms. The county and cities gain nothing from this agreement, unless the $4 million "donation" is now the price of admission that the County demands for ULL violations and increased urban sprawl. In sum, the MOU would directly enable urban development on lands now outside the ULL, without securing any new, substantive protections for other agricultural or open space lands in exchange. For that reason, it does not constitute a "preservation agreement" for purposes of approving an expansion of the ULL under Section 82-1.018(a)(3) of the County Zoning Code. 4

5. The MOU actually encourages further development in the proposed TV AEA because the language of paragraph 13 in the Agreement allows any developer who a) finds 500 acres of land to "preserve" (not necessarily in the TV) and b), writes a check for $4 million to the County, with this MOU in place could develop 30 acre parcels outside the ULL and within the AEA 17,718 acres. Multiple 30 acre developments could be created outside the ULL and within the AEA, without voter approval, as long as the developer cites this MOU and writes a $4 million check. 5

6. Although we strongly disapprove of this project's so called MOU, we would propose the following wording in paragraph 13 of the Agreement section of the MOU if this EIR is to go forward: 6

*Notwithstanding anything contained in this MOU to the contrary, the Parties agree that in the event the County, in its discretion as Lead Agency, certifies an Environmental Impact Report (**"EIR"**) pursuant to CEQA and the CEQA Guidelines, and approves the project described in that EIR (**"Project"**) where the Project (1) permanently preserves at least Five hundred (500) acres of land in the Tassajara Valley for non-urban uses such as recreation, open space, agriculture, grazing, scenic, wetland preservation and creation, and habitat mitigation and provides an irrevocable donation at the time of Project approval of at least $4 million ("Donation") to an agricultural enhancement fund established by the County ("Fund"), for the exclusive purpose of furthering agricultural enhancement and other non-urban uses in the Tassajara Valley, the County shall have authority to find that this MOU satisfies the requirements of section 82-1.018(a)(3) of the County Ordinance Code. Notwithstanding anything contained in this MOU, this MOU expressly prohibits any future developer from using this MOU as justification for future development in the Tassajara Valley Agricultural Enhancement Area.*

6 CONT

The above suggested language for paragraph 13 is intended to a) insure that the developer donates land in the TV, b) immediately deposits $4 million with the County at time of Project approval, c) that the funds are dedicated exclusively for use in the TV, and finally d), that this MOU is a single use device, not open ended, as presently written, to allow future 30 acre development chunks in the AEA.

Again, to be completely clear, this MOU is defective for the reasons cited above and others in comments previously submitted. The undersigned believes that the MOU as part of the EIR must be rejected by the Board of Supervisors

7

Sincerely,

Richard L. Fischer
Co-founder
Tassajara Valley Preservation Association

Gretchen Logue
Co-founder
Tassajara Valley Preservation Association

October 24, 2016

Mr. John Kopchik
Director
Department of Conservation and Development
Contra Costa County
30 Muir Road
Martinez, CA 94553

8

Re: Comments on Recirculated DEIR for Tassajara Parks Project (the "Project")

Dear Mr. Kopchik:

Thank you for allowing us to comment on the Project's R-DEIR. We found that there are a number of errors or significant understatement of impacts as contained in the R-DEIR.

Water:

Executive Summary HYD-2 and HYD-3. We disagree with the finding that "No mitigation is necessary" as will be explained in a later section. There will be a significant impact to residents in the Finley Road area who rely on groundwater recharge and storm water runoff to recharge their existing wells for potable water usage.

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Transportation:

Executive Summary Trans 4 and Trans 6. We disagree with the conclusions that "No Mitigation is necessary" in Trans 4 and disagree with the proposed mitigation measures in Trans 6 as being inadequate. We also disagree with the "Less than significant impact" conclusion in both items which will be more fully explained in a later section.

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Water Detail:

3.8.2 Storm Drainage: It is correctly pointed out that runoff from the Project's Northern Site ultimately drains to Tassajara Creek. Presently, the Northern Site is agricultural and there is no intervening urban development to produce pollutants such as oil residue from automobiles or residential landscaping fertilizers and pesticides to comingle with storm runoff. The proposed 125 home development will produce these contaminants which will mix with storm water to pollute Tassajara Creek and ground water recharge. The residents in the immediately adjacent Finley Road Area (Finley Road, Country Lane, Old School Road, and Joseph Lane rely on ground water recharge for their domestic potable water. Polluted runoff will have an adverse effect on the quality of domestic potable water produced by their wells. The R-DEIR ignores this adverse effect.

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3.8.2 Ground Water: The 2009 ground water study is out of date and the measurements taken do not take into account the severe drought that the area has experienced since then. Measurement taken

12

today would with tell a significantly different story. Many residents in the Finley Road Area have seen their wells stop producing. The proposed development will destroy a minimum of 30 acres of watershed out of production, essential for ground water recharge and maintaining minimum potable water production from wells in the Finley Road Area. 12 CONT 13

3.8.6 Water Quality—Groundwater: The R-DEIR is in error in stating that the development would have no effect on ground water. As stated previously, the R-DEIR relies on a 9 year old hydrology study which was made before the multi-year drought. Water will not be found at those levels if measurements were taken today. The Project Applicant should commission a new study of ground water levels. Second, the R-DEIR is ambiguous in stating that "future abandonment of the wells on the Project Site would be required to occur....." The R-DEIR should read "Abandonment of the wells will occur and not be used by the Project's residents....." The term "future" is indefinite, and it leaves open the potential use of the wells for landscape use by the homeowners, further depleting the available water for the Finley Road Area residents. 14 15

Traffic Detail:

Table 3.12-6 This table shows an additional 1,632 additional trips arising from the development. Yet the table 3.12-7 shows only minimal impacts on traffic delays. Moreover, the R-DEIR totally ignores the effect on Tassajara Road south of Finley Road. Presumably, some residents of the Project will be travelling south to job sites in the Tri Valley or Silicon Valley, most likely during the morning commute, and impacting exiting vehicles from Finley Road. This intersection (Finley Road, Camino Tassajara, and Tassajara Road) is controlled only by a stop sign. Delays to Finley Road Area residents will invariably arise—the only reasonably mitigation measure would be for the developer to install a controlled traffic signal at this intersection. 16 17

Road Safety—Impact Trans 6-b. The R-DEIR is deficient in at least two areas—comments concerning the Future Equestrian Staging Area ("FESA") and the intersection of Finley Road, Camino Tassajara and Tassajara Road. The R-DEIR correctly points out that the sight lines from the exit of the FESA and Finley Road present a major safety hazard. Traffic southbound on Finley Road approaches the FESA and drivers in vehicles exiting the FESA will find southbound Finley Road traffic suddenly upon them. This danger will be enhanced by the fact that vehicles exiting the FESA will be encumbered by horse trailers, limiting the time to react to southbound traffic. Secondly, the FESA driveway is located directly across from the Tassajara School House which is utilized during the school year by 3rd grade children who get to experience school life in a 1 room 19th century school house. The developer proposes to mitigate this danger by "clearing brush" and relocating a portion of the driveway, yet the blind curve in Finley Road will remain—future accidents and injuries waiting to happen. The only sensible mitigation measure is to eliminate the FESA from the project's design. 18 19

Road Safety—Impact Trans 6. In regard to the Finley Road, Camino Tassajara, Tassajara Road intersection, the developer proposes *"the incorporation of MM TRANS-3e, which requires the applicant to add a 50-foot southbound right-turn pocket to Finley Road, sufficient site distances would still be present for all turning movements"* This statement is confusing since a right turn pocket from Finley 20

Road would proceed **eastbound** on Camino Tassajara, not **southbound**. To clarify, traffic exiting from Finley Road would either turn left to proceed **southbound** on Tassajara Road, or right to proceed **westbound** on Camino Tassajara. In any case, regardless of where the "turn pockets" are located, this proposed mitigation does nothing to eliminate the hazards presented to vehicles exiting Finley Road. Indeed, as stated above, the Project will increase traffic in the eastbound/southbound direction resulting in excessive delays and added danger to vehicles exiting Finley Road and proceeding south on Tassajara Road. The only acceptable mitigation measure would be for the developer to install a controlled signal at the Finley Road, Camino Tassajara, and Tassajara Road intersection.

20 CONT

5.6.2 Alternative Locations: The developer identifies two alternative sites within the Urban Limit Line. These alternative sites could be developed, but the developer dismisses these because *"the Project Applicant does not own, control, or otherwise have access to this site, and the ability of the applicant to gain ownership of this site is speculative; therefore, this alternative site(s)) was (were) rejected from further consideration."*

21

The county gives preference for development within the established Urban Limit Line. It is not the concern of the County that the developer does not own these sites. Therefore, given the availability of alternative sites, the R-DEIR defects cited above, and to avoid piercing the voter approved urban limit line, the Project should not be attempted.

22

Sincerely,

Richard L. Fischer
Co-founder
Tassajara Valley Preservation Association

Gretchen Logue
Co-founder
Tassajara Valley Preservation Association

Tassajara Valley Preservation Association (TVPA)

Response to TVPA-1
Please see Master Response 2: Agricultural Preservation Agreement.

Response to TVPA-2
Please see Master Response 2: Agricultural Preservation Agreement.

Response to TVPA-3
Please see Master Response 2: Agricultural Preservation Agreement.

Response to TVPA-4
Please see Master Response 2: Agricultural Preservation Agreement.

Response to TVPA-5
Please see Master Response 2: Agricultural Preservation Agreement.

Response to TVPA-6
The comment is noted. The issue raised by the commenter addresses the merits of the Project and does not raise any issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments (Merits of the Project).

Response to TVPA-7
The comment is noted. The issue raised by the commenter addresses the merits of the project and does not raise any issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to TVPA-8
The commenter provides introductory text; no response is required.

Response to TVPA-9
Impacts associated with groundwater are outlined in Impact HYD-2 on page 3.8-9 (Hydrology and Water Quality) of the RDEIR. No new on-site groundwater wells would be drilled as part of the Project. As discussed in more detail in the WSE, it is anticipated that the Project would generate a demand up to approximately 48 acre-feet of potable water annually; refer to Section 3.11, Public Services and Recreation, for further discussion. The proposed source of water originates primarily from surface water, and, therefore, the Project would not deplete groundwater supplies. See Master Response 1: Water Supply and Distribution.

Response to TVPA-10
The traffic analysis identified all significant Project-related traffic impacts, and it also identified feasible mitigation that would be imposed as enforceable conditions, as discussed in the TIA and Section 3.12 of the RDEIR.

Response to TVPA-11
Groundwater impacts are discussed in Impact HYD-2, RDEIR Section 3.8, Hydrology and Water Quality, p. 3.8-9. Hydrologic Supporting information and studies are included in Appendix G of the RDEIR. The appendix includes an analysis of the retention basin. The analysis confirms that the

Project would not result in a significant, negative impact on groundwater recharge or potability of existing wells in the area.

Response to TVPA-12
See Response to TVPA-11.

Response to TVPA-13
See Response to TVPA-11.

Response to TVPA-14
See Response to TVPA-11. Please also note that the Project would receive municipal water from EBMUD and would not affect groundwater supplies in the Tassajara Valley.

Response to TVPA-15
The wells on the Northern Site would be abandoned pursuant to applicable laws and regulations prior to issuance of grading permits.

Response to TVPA-16
The traffic analysis identified all significant Project-related traffic impacts, and also identified feasible mitigation that would be imposed as enforceable conditions, as discussed in the TIA and Section 3.12, Transportation and Traffic, of the RDEIR. Please also refer to Master Response 3: Transportation Analysis.

Response to TVPA-17
RDEIR Section 3.12, Transportation and Traffic, evaluates the implementation of the Project and its effect upon traffic levels. The RDEIR includes mitigation where needed to address potentially significant impacts. The RDEIR (at pp. 3.12-63 and -64) evaluated this intersection and determined that the Project's impact would not result in the need for a signal pursuant to California Manual on Uniform Traffic Control Devices (CA MUTCD) signal warrant guidelines.

Response to TVPA-18
At the time the RDEIR was published, the applicant had proposed to offer to dedicate land to EBRPD for purposes of a potential future Equestrian Staging Area. Therefore, for purposes of a conservative evaluation, a sight distance analysis was conducted at the proposed driveway to the previously proposed future equestrian staging area (see RDEIR Impact TRANS-6, Section 3.12, Transportation and Traffic, page 3.12-82). The northerly intersection sight distance is currently limited by the horizontal curvature of Finley Drive north of the driveway and the brush within the curb radius. The Project had previously proposed, as a project design feature, to realign the driveway onto Finley Road, which is anticipated to improve sight distance at this location. In addition, Mitigation Measure TRANS-6b required the applicant to clear brush and any obstructions that limit the sight distance within the horizontal radius of Finley Road to ensure that adequate sight distance is provided in the northerly direction. The RDEIR concluded that with implementation of these measures, the potential impact would be reduced to a less than significant level. Subsequent to the publication of the RDEIR, it was determined that an equestrian staging area would no longer be included as part of the Project and is thus no longer incorporated into any Project approvals. Accordingly, the Project applicant no longer proposes to realign the above-referenced driveway and Mitigation Measure TRANS-6b is no

longer relevant, since the previously identified significant would no longer occur since the equestrian staging area is no longer part of the Project.

As indicated in Section 4, Changes to the RDEIR/Errata, in consultation with EBRPD, it has been determined that a future equestrian staging area will no longer be included as a Project component and thus has been deleted from the Project Description. Furthermore, since the foregoing safety impact would no longer occur, Mitigation Measure TRANS-6b would no longer be necessary and therefore has been removed. The foregoing minor revisions do not change the underlying analysis in a way that would result in new significant impacts or increase the severity of any previously identified impacts.

Response to TVPA-19
See Response to TVPA-18.

Response to TVPA-20
The Project's potential impacts to the intersection of Camino Tassajara and Finley Road are discussed in the RDEIR Section 3.12, Transportation and Traffic, at page 3.12-66. However, as discussed in Master Response 3 Transportation Analysis, (subpoint 4, The identification of safety mitigation for drivers and pedestrians entering/exiting the staging area at Finley Road), the applicant no longer proposes to develop an equestrian staging area, and this project component is removed from the project description. Accordingly, the identified potential impact at the intersection of Finley Road / Camino Tassajara would not occur. As such, the implementation of Mitigation Measure TRANS-3e, which requires the construction of a southbound right-turn pocket is no longer required and therefore has been removed.

Response to TVPA-21
The consideration of alternative sites evaluates whether the development of the alternative location would result in environmental impacts that would be less than what the Project would create. The evaluation, as summarized in RDEIR Section 5, Alternatives to the Proposed Project, on pages 5-11 and 5-12, notes that both alternative sites are undeveloped and would likely result in similar impacts related to site preparation, and potential effects on biological, cultural, hydrological, and geological resources. The commenter cites one portion of the discussion; i.e., that the applicant does not currently control either site; however, the discussion in the RDEIR focuses first on the similar effects that development of either alternate site could generate. The lack of ownership is noted after summarizing the potentially similar environmental effects that development of either of the alternate sites could cause.

Response to TVPA-22
Opposition to the Project is noted. Please see Master Response 4: General Comments.

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John Oborne

From: Lisa Arendt <arendtla@aol.com>
Sent: Monday, November 28, 2016 8:38 AM
To: John Oborne
Subject: 125 homes

Dear John,

I am writing to express my concern on the 125 homes being built next to Tassajara Hills school.
We have and are still attending that school for over seven years. The traffic is absolutely horrific. The school is at capacity with classrooms that have over 31 kids.
I am one of many families here that oppose having new homes set in that beautiful location next to our parking lot. 1

There is no reason to build homes on the most spectacular view from a children's elementary school parking lot. Dublin now has many new developments where people can move to, why do we need to have some new development here in the Blackawk area when we already have 5000 new homes across the street?
This doesn't make sense.

Regards,

Lisa Arendt

Sent from my iPhone

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Individuals

Lisa Arendt (ARENDT)

Response to ARENDT-1

With respect to the comment regarding potential Project-related traffic impacts, the TIA took into consideration the adjacent Tassajara Hills Elementary School and confirmed that the Project would not result in a significant and unavoidable impact to traffic operations in the vicinity of the school. In addition, the TIA provided recommendations to improve existing circulation and safety deficiencies, which the Project applicant has voluntarily agreed to incorporate into the Project's design for the benefit of the broader community. Regarding the comment on potential school facilities-related impacts, see discussion in RDEIR Section 3.11, Public Services and Recreation, at p. 3.11-14, which confirmed that the Project would not have a significant impact on school capacity or enrollment. Moreover, consistent with SB 50, the ability to require mitigation of school facility impacts as a condition of approval is limited to the collection of statutory developer fees. The collection of statutory fees is the exclusive means of considering and mitigating potential impacts on school facilities that occur or might occur as a result of the approval of development of real property. With respect to the Project's potential aesthetic/visual resources impacts, the RDEIR in Section 3.1, Aesthetics, Light, and Glare, at pp. 3.1-6 to 3.1-26 evaluates these impacts and concludes that the Project would not have a significant impact on aesthetic resources. The remaining portions of the comment express a general opinion of the merits of the Project, rather than specific environmental issues under CEQA, and, therefore, no further response is required.

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John Oborne

From: Newell Arnerich <NArnerich@danville.ca.gov>
Sent: Saturday, November 12, 2016 6:13 PM
To: morgandhc@aol.com
Cc: John Oborne; John Kopchik; Mary Piepho; Supervisor Candace Andersen; dburgis@ebparks.org; District5; John Gioia; SupervisorMitchoff; bclarkson@sanramon.ca.gov; sperkins@sanramon.ca.gov; dhudson@sanramon.ca.gov; poloane@sanramon.ca.gov; hsachs@sanramon.ca.gov; Mike Doyle; Renee Morgan; Robert Storer; Karen Stepper; Lisa Blackwell
Subject: Re: Tassajara Parks Draft EIR MOU

Dear Roger,

Thank you for you email. Danville does not support moving the Urban Limit Line nor the MOU. We strongly believe that the Urban Limit Line is working and does not need to be moved to build hundreds of houses. This is in Danville's backyard and everyone should respect our position in protecting open space and stay out of this politically motivated attempt to cross this sacred line that has a demonstrated purpose and is protecting our open space without exception! 1

Thank you again

Best regards,

Newell Arnerich
Councilmember | Danville Town Council
Town of Danville | 510 La Gonda Way | Danville, CA 94526
T 510.366.0716 | f (925) 838-0548
arnerich@danville.ca.gov | www.danville.ca.gov

Mayor 1999, 2004, 2009, 2012 & 2013
Elected to the Council in 1995, 2000, 2004, 2008, 2012 & 2016

Contra Costa County Mayors Conference, Exec. Committee & Past Chair
Tri-Valley Transportation Council, Past Chair
Tri-Valley Afforable Housing Committee, Past Chair
CCTA, Contra Costa Transportation Authority, Board Member & APC Committee Member
TRAFFIX Board Member/ C0-founder
Central Contra Costa Solid Waste Authority, Board Member & Finance Committee
iGATE Innovation Hub, Board Member
EBEDA, East Bay Economic Development Alliance for Business, Exec. Committee
Discovery Counseling Center, Board Member
Leadership San Ramon Valley, Board Member Danville, Past President
Danville Finance Committee
Danville Library Endowment Board Member

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Newell Arnerich (ARNERICH)

Response to ARNERICH-1

Please refer to Master Response 4: General Comments.

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John Oborne

From: Omair Ashfaq <oashfaq@gmail.com>
Sent: Monday, November 28, 2016 3:05 PM
To: John Oborne
Subject: concern regarding tassajara parks project

Hi John,
I am writing with regards to some concerns I have with the Tassajara Parks project.
The main concern I have is around the traffic on Camino Tassajara which is already causing delays during commute and school hours. 1
The other concern is around the open view of the natural hills which give an open and a calming look to this area. 2
I would like to re-consider giving approval to this project and allow the current residents of the area to enjoy the area without changing its landscape or adding more traffic. 3

Sincerely,

Omair Ashfaq
Resident of Town of Danville

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Amair Ashfaq (ASHFAQ)

Response to ASHFAQ-1

The traffic impact analysis evaluated the Project's potential traffic-related impacts in the identified study area, including Camino Tassajara. In so doing, it applied the applicable significance thresholds (which is LOS D for Contra Costa, Danville, and San Ramon); see RDEIR Section 3.12, Transportation and Traffic, pp. 3.12-33, and 3.12-34 through 3.12-81. Where significant Project impacts were identified, feasible mitigation was provided, consistent with relevant agency policies and industry standards and protocols.

Please also refer to Master Response 3: Transportation Analysis.

Response to ASHFAQ-2

The RDEIR included a complete analysis of the Project's potential effects to visual and aesthetic resources. Exhibits 3.1-2, 3.1-3, and 3.1-4 in Section 3.1, Aesthetics, Light, and Glare, depict simulations of the Project from various public vantage points. As discussed in Section 3.1 of the RDEIR, the Project would not result in any potentially significant aesthetic impacts, including potential impacts to views of the surrounding hillsides.

Response to ASHFAQ-3

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR; no further response is required. Please also refer to Master Response 4: General Comments.

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John Oborne

From: John Ashley <john.ashley@gmail.com>
Sent: Monday, November 28, 2016 4:10 PM
To: John Oborne
Subject: Tassajara Parks proposal

Hi John,

I'm writing to express my concerns with the currently proposed Tassajara parks project.

My son attends Tassajara Hill elementary school which is adjacent to the proposed development. My family and I live nearby in Blackhawk. 1

1) I am concerned with the traffic flow that the project will bring to Camino Tassajara. This project has 4 lanes of traffic coming in one direction and 2 lanes in the other. These seems entirely inconsistent with other developments of this size in the valley that have 4 lanes in all directions. Unless Camino Tassajara is widened to 4 lanes all the way to Dublin, the artery can not handle this development. Also the traffic into Tassajara Elementary School clogs the roadway already in the mornings and afternoons. This project will aggravate that situation further. The proposed solution to this traffic congestion seems very inadequate. 2

2) As far as the elementary school and nearby middle school are concerned, I have not seen any plan to build another school to accommodate for so many new families moving into the proposed Tassajara Park proposal. Currently, the Tassajara Hill elementary school is over capacity. Current residents have to enter a lottery system to attend. There is no space for new incoming families. The proposal needs to include additional schools to be viable. 3

This land is currently zoned as farm land for these reasons. No further development should occur on these farm lands without adequate traffic upgrades and additional schools. 4

I look forward to your reply

Best regards,

John Ashley
45 Red Alder Ct.
Blackhawk, CA 94506

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John Ashley (ASHLEY)

Response to ASHLEY-1
The comment is noted. The issues raised by the commenter address the merits of the Project and related Agricultural Preservation Agreement (formerly referred to as the MOU), and do not raise any issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to ASHLEY-2
The CCTA model, which was used in conducting the Project's traffic analysis, shows that the roadway would operate at acceptable conditions. One Project driveway ("A" Street) would be three lanes (two out, one in), the other Project driveway would be two lanes (one in, one out). Where the traffic impact analysis identified significant impacts on the transportation network, including Camino Tassajara, feasible mitigation has been identified that would reduce impacts to a less than significant level, consistent with relevant agency policies and industry standards and protocols. In addition, the TIA provided recommendations to improve existing circulation and safety deficiencies, which the Project applicant has voluntarily agreed to incorporate into the Project's design for the benefit of the broader community. Please also refer to Master Response 3: Transportation Analysis.

Response to ASHLEY-3
The comment is noted. The RDEIR evaluated the Project's potential impacts on schools, and confirmed there would be less than significant impacts (RDEIR Section 3.11, Public Services and Recreation, pp. 3.11-14). Consistent with SB 50, the ability to require mitigation of school facility impacts as a condition of approval is limited. The RDEIR included additional references on page 3.11-7 to fees that could be imposed under SB 50 to offset potential effects of increasing enrollment. The County and applicant team participated in several communications with the school regarding the Project and the development and refinement of proposed improvements for access and circulation at the school facility.

Response to ASHLEY-4
As discussed in Section 2, Project Description, on page 2-41, the Project would include the rezoning of the Northern Site and Southern Site from Exclusive Agriculture District (A-80) to Planned Unit District (P-1); for a discussion of the Project's potential land use impacts, see RDEIR Section 3.9, Land Use, Population, and Housing, pp. 3.9-26 through 3.9-43. The Project's potential impact to agricultural resources is addressed at RDEIR Section 3.2, Agricultural Resources, on pp. 3.2-12 through 3.2-15, and confirms that the Project would not have any potentially significant impacts and no mitigation would be required. Impacts from the Project on traffic are discussed in the RDEIR, starting on page 3.12-34, Section 3.12, Transportation and Traffic. For all identified significant impacts, feasible mitigation has been identified.

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John Oborne

From: Jessica Benson <jessicabenson542@gmail.com>
Sent: Wednesday, November 30, 2016 1:44 PM
To: John Oborne
Subject: Fwd: No Calaveras water for the Tassajara Project

Dear John Oborne, senior planner Contra Costa County

As a concerned resident of Calaveras County, and a neighbor to Schaads reservoir. I along with many in our community as a whole are very much concerned about the potential impact of this Tassajara project moving forward. I can only hope that the communities near this potential development are as equally concerned with its future damaging impact. Once that ULL/ boundary line is moved, allowing this project to move forward, it will be extremely difficult to hold back other multi-million dollar projects from working their way into the protected open/agriculture space, thus just continuing the unsustainable urban sprawl already in that area. 1

If Contra Costa county truly feels that allowing more urban sprawl is an appropriate use of what little open space is left in that area, then they must be able to sustainably support and supply their own water needs. Continuing with the water conservation in the East Bay area is a must for the longevity of those citizens and for the future of our drought in California. The EIR for this project seems to be ignoring many of the long term impacts of this unsustainable expansion project. Not to mention the future impact of counties other than its own.

Schaads reservoir (which most of the people in this multi million dollar neighborhood in Contra Costa county have not even heard of) Will not be able to sustain this false promise that is getting kicked around by our CPUD and EBMUD. I was at Schaads two days ago and the conditions of this reservoir were nothing what they should be in November. This is our "wet" season, and the reservoir was at a level you would see on a 97 degree day in August. So a 25+ year plan to practically give this water away is NOT in the best interest for our future and for the families and communities in Calaveras County. We will struggle with our own water rights and any future development locally in the years to come. The detrimental impact of this project will last beyond our lifetime. I have sat on the edges of the middle fork of the Mokelumne river and watched it go down stream as a trickle, so Schaads is not the best reservoir to be draining for other counties while the citizens of Calaveras continuously express concerns about the future of our own local water demands. 2

I strongly urge you to reconsider on making this 25+ year commitment to counties other than ours. The heartbreaking price at which this water sale is being discussed is beyond words. Local families with minimal incomes pay more for their water then this high end proposed long term project. These multi-million dollar investors should not be allowed to buy, build and bulldoze how they please. Once those water rights are given away, it will be next to impossible to get them back. 25 years from now might be too late. Not to mention the environmental impact of such a massive pipeline expansion. The more water we continue to send downstream, the less water we will have for our own local communities and our future here in Calaveras County. EBMUD needs to be able to take care of its own residents with out negaively impacting us and our most precious resource.

I know you work hard and have multiple agencies, communities, and financial pressures to juggle, but PLEASE Keep Calaveras water in Calaveras. Thank you for your time.

Thank you,
Jessica Benson- Wilseyville, CA.

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Jessica Benson (BENSON)

Response to BENSON-1

The comment is noted. As discussed at length in Responses to EBMUD-14 and -15 above, a WSE was prepared for the Project to assess available sources of water supply (Appendix J of the RDEIR). The WSE identifies sources of the potable water to meet Project demand, and confirms there would be sufficient supplies in normal, single-dry and multiple-dry years. Please also refer to Master Response 1: Water Supply and Distribution, which explains that CPUD option is no longer being pursued. Please refer to Master Response 2: Agricultural Preservation Agreement for a discussion about the ULL.

Response to BENSON-2

Master Response 1: Water Supply and Distribution, which explains that CPUD option is no longer being pursued.

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John Oborne

From: Chuck Bettencourt <cabetten@yahoo.com>
Sent: Saturday, November 19, 2016 12:26 PM
To: John Oborne; John Kopchik; Mary Piepho; Supervisor Candace Andersen; dburgis@ebparks.org; District5; John Gioia; SupervisorMitchoff; bclarkson@sanramon.ca.gov; sperkins@sanramon.ca.gov; dhudson@sanramon.ca.gov; poloane@sanramon.ca.gov; hsachs@sanramon.ca.gov; arnerich@danville.ca.gov; mdoyle@danville.ca.gov; rmorgan@danville.ca.gov; storer@danville.ca.gov; kstepper@danville.ca.gov; lblackwell@danville.ca.gov
Subject: Fw: Tassajara Parks RDEIR comments extended

We agree with our neighborhood group, and support the issues listed below.
thanks

Chuck Bettencourt
2000 Marciel Rd.
Livermore, CA 94551
510 908-3602

----- Forwarded Message -----
From: Sandee Wiedemann <xosandee@earthlink.net>
To: Sandee Wiedemann <xosandee@earthlink.net>
Sent: Monday, November 14, 2016 7:24 PM
Subject: Tassajara Parks RDEIR comments extended

Hi Team,

Christian asked me to let you all know that John Kopchik has extended the RDEIR (Revised Draft Environmental Impact Report) comment window to 5pm November 30th, in case you missed today's deadline. 1

I sure encourage you to send your letter as soon as possible. It felt so good to get it off the list, and it is our most effective way to make our points.

Sandee

Content from Christian's last update is copied here:

> All,
>
> Thank you for coming out to last night's meeting with John Kopchik and Mary Piepho to discuss the Tassajara Parks MOU. If you were not able to attend, you still have an opportunity to be heard.
>
> I have provided some notes from yesterday's meeting below. Please take any or all of these points (or any others you have) and send an email to the County with your comments. Please

specify that your comments are related to the Tassajara Parks Draft EIR, which the MOU is part of.

The deadline to submit comments is this Monday, November 14th. Instructions on where to send the email are provided below. Some notes from last night's meeting:

County staff confirmed the following points about the MOU:

- The MOU was written by the Tassajara Parks developer in order to allow the project to move the ULL without a public vote.
- The County only needs San Ramon to sign the MOU in order for it to do what Tassajara Parks needs it to do. According to the County, Danville and EBRPD are irrelevant in order for the MOU to be effective.
- Tassajara Parks can move the ULL without the MOU, by using an alternate finding in the County code. However, the MOU is the easiest way for the project to move the ULL.
- The MOU restricts the extension of municipal water into Tassajara for residential use.
- The MOU will be voted on before Tassajara Parks is voted on, meaning the MOU could be approved and Tassajara Parks denied, and the MOU would remain in place regardless.
- The MOU is permanent, it has no expiration, unlike the ULL which expires in 2026.

Other comments on the MOU:

- Danville has already refused to sign the MOU, calling it "flimsy" and "against the will of the voters" who approved the Urban Limit Line (ULL).
- Despite being called an "ag enhancement agreement", the MOU is about securing open space rather than enhancing agriculture.
- The MOU actually encourages development in Tassajara, by providing a legal path for future projects to move the ULL without a public vote. A developer simply needs to contribute $4M and 500 acres of open space to the County in order to move the ULL without a public vote.

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Regarding the $4 million:

- It is unclear what the $4M would be used for or how it would be allocated.
- The $4M amount was decided through a private negotiation between the developer and the County, with no input from the residents of Tassajara who are affected by the agreement.
- EBRPD recently added language to the MOU that allocates 90% of the $4M to land acquisition and conservation easements, leaving only 10% of the funds ($400k) for agricultural use.
- EBRPD, the City of San Ramon and Save Mount Diablo have all already expressed interest in using the $4M for their own programs.
- Save Mount Diablo was recently quoted in a news article as saying they are waiting to see the final version of the MOU until publicly supporting the Tassajara Parks project.
- The MOU does not say where in the County the funds can be spent, meaning the $4M could be spent anywhere in the County, not just in Tassajara.

Email instructions:

Please email John Oborne with your comments before 5pm next Monday November 14th. Please specify that your comments are related to the Tassajara Parks Draft EIR. John Oborne's email is john.oborne@dcd.cccounty.us.

I also encourage you to copy the following people on your email to John Oborne:

John Kopchik, CCC Director of Conservation and Development:
john.kopchik@dcd.cccounty.us

County Supervisors (current as well as recently elected):
mary.piepho@bos.cccounty.us
supervisorandersen@bos.cccounty.us
dburgis@ebparks.org
district5@bos.cccounty.us
jgioi@bos.cccounty.us
supervisormitchoff@bos.cccounty.us

San Ramon City Council:
bclarkson@sanramon.ca.gov
sperkins@sanramon.ca.gov
dhudson@sanramon.ca.gov
poloane@sanramon.ca.gov
hsachs@sanramon.ca.gov

Danville Town Council (current as well as recently elected):
arnerich@danville.ca.gov
mdoyle@danville.ca.gov
rmorgan@danville.ca.gov
storer@danville.ca.gov
kstepper@danville.ca.gov
lblackwell@danville.ca.gov

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All of the above email addresses are also provided below for easy copy/paste into an email:

john.oborne@dcd.cccounty.us; john.kopchik@dcd.cccounty.us; mary.piepho@bos.cccounty.us; supervisorandersen@bos.cccounty.us; dburgis@ebparks.org; district5@bos.cccounty.us; jgioi@bos.cccounty.us; supervisormitchoff@bos.cccounty.us; bclarkson@sanramon.ca.gov; sperkins@sanramon.ca.gov; dhudson@sanramon.ca.gov; poloane@sanramon.ca.gov; hsachs@sanramon.ca.gov; arnerich@danville.ca.gov; mdoyle@danville.ca.gov; rmorgan@danville.ca.gov; storer@danville.ca.gov; kstepper@danville.ca.gov; lblackwell@danville.ca.gov

As always feel free to email with any questions or comments.

Best,

Christian

--
Christian Wiedemann
christian.wiedemann@gmail.com

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Chuck Bettencourt (BETTENCOURT)

Response to BETTENCOURT-1

Please refer to Master Response 2: Agricultural Preservation Agreement.

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County File Numbers: GP07-009, RZ09-3212, SD10-9280, DP10-3008

Richard Blood
9033 Old Toll Road
Mokelumne Hill, CA, 95245

November 30, 2016

John Oborne, Senior Planner
30 Muir Road
Martinez, CA 94553
John.Oborne@dcd.cccounty.us (transmitted by email)

Regarding: Comments Tassajara Park State, Clearing House Number: 2014052089 County File Numbers: GP07-009, RZ09-3212, SD10-9280, DP10-3008

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Dear Mr. Oborne,

I am a resident of Mokelumne Hill, California, a community in Calaveras County. Mokelumne Hill is in the Calaveras Public Utility District (CPUD) and I am a member of the public that owns CPUD. I have reviewed the sections of recirculated draft environmental impact report (RDEIR) for Tassajara Park that related to proposed water transfer from CPUD's Schaads Reservoir to Tassajara Paks. Listed below are my comments regarding the proposed water transfer:

1) The Calaveras Public Utility District (CPUD) staff and its board of directors have conducted no public outreach to inform the public it serves of the proposed water transfer for a proposed development (Tassajara Parks) in Contra Costa County. CPUD staff and its board of directors has not attempted to make the case to the public that the transfer in the best interest of the public utility to enter into a water transfer agreement with term of 50 years and obligation to transfer 100 af/y to Contra Costa County. There have been no public hearings regarding this proposed water transfer so public that owns this public utility have not been afforded opportunity to make comments regarding this proposed water transfer to the Tassajara Park in Contra Costa County. CPUD staff made no attempt to notice the public it serves that the comment period for the RDEIR was open. A review of the agenda and the minutes of CPUD boarding meeting posted on CPUD website was conducted for the period from January 2015 to the present (all that were available online). In conducting the review I was unable to find any reference to Tassajara Park. The agenda and the minutes for the 10-11-16 have notations of a closed discussion for RDEIR and make no mention of Tassajara Park. Several of the agenda and meeting minutes indicated that closed sessions took place regarding the terms of a water transfer but no other details were noted. During an in person discussion with the District Manager, Donna Leatherman, she indicated that minutes and the agenda of 10-11-16 are the District's public notice for the project. Furthermore she stated that the RDEIR was the method for the public served by the district to comment because at the present the board has no intention to discuss or take comment from the public during an open session of the board for the proposed water transfer to Tassajara Park.

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2) Section 3.12.2 page 3.13-13 states "On June 12, 2015, the SWRCB issued a curtailment notice for surface water rights in the Sacramento-San Joaquin Rivers watershed that have a priority date of 1903 or later. That is the earliest water right priority date affected by the SWRCB's curtailment program. Although the Mokelumne River is part of the Sacramento-San Joaquin Rivers watershed, CPUD's Schaads water right has a priority date of 1852 and therefore remained unaffected by the SWRCB's curtailment program." CPUD was issue a curtailment order in June of 2015 and there was a moratorium on new connections. The public served by CPUD that intended to build but did not have a meter in place could not precede with their development plans. In the event that another curtailment order is issued to CPUD with a moratorium for new connections it appears that the proposed project in Contra Costa County being served by the water transfer the with a priority date of

3

1852 can proceed with development but the public that owns CPUD would be subject to a building moratorium. Section 3.31 of Appendix J page 3-5 contains the following statement:

"The use of CPUD water to supply the Tassajara Parks project will require transfer of the water to the retail entity serving the Project. Transfer of water under a pre-1914 water right does not require SWRCB approval. As a general rule, appropriative water rights, like CPUD's pre-1914 right, may be transferred for use at a different location, so long as the transfer does not injure other water rights holders."

It appears that the public that owns CPUD which holds the 1852 water rights would be injured in the event that another curtailment order as it would be result in a building moratorium. It appears from the statement above that we are transferring our water rights for the 50 year term of the agreement as well as the water. Donna Leatherman, District Manager, of the CPUD stated that districts' was transferring only water not the districts' water rights. The CPUD should have been able to release water from Schaads Reservoir during the 2015 curtailment order to offset new connections made to water system to avoid a new connection moratorium. Why weren't increased water releases made by CPUD to avoid a new connection moratorium in 2015? It appears the that this proposed water transfer will adversely impact the economic development of the communities (Mokelumne Hill, San Andreas, Paloma, Glencoe) within the district to insure the development rights and economic benefits of the proponents of Tassajara Park in Contra Costa County. The water transfer agreement as currently drafted provides little benefit to this public utility and is a bad deal for the public that owns the water utility. 3 CONT

3) The RDEIR does not an offer explanation as to why the project proponents did not explore the possibility of developing the ground water resources that may exits beneath the Northern Site and Southern Site to provide potable water to the 125 single-family homes. The Northern Site is approximately 155-acres. 30-acres of which will used for the 125 single-family homes. Approximately 609-acres of the Southern Site is to be given to the East Bay Regional Park District, for parks / recreation / open space and agricultural use. The remaining 7-acres of the Southern Site would be offered for dedication to the San Ramon Valley Fire Protection District for their potential use. 727-acres of open space are available to construct public drinking water wells to provide potable water to this project. The installation of drinking water wells and supply lines in the open spaces proposed for the Southern Site and Northern Site are not incapables uses. Section 3.8 "Hydrology and Water Quality" does not address the possible use of local ground water resources as a potable water source for the project. No data was provided in this section that demonstrates that local ground water resources are inadequate to meet the water demand of the proposed project. No test wells were drilled to provide data to quantify yields or the quality of the local ground water resources. The reports states that there are existing wells on the Northern Site and Southern Site. There was no information provided on these wells such as their depth, depth to ground water in the wells, depth and the description of the geological units encountered during the drilling of the well from the well log, yields from well log, or water quality data for Title 22 of the CCR primary and secondary drinking standards. There was no indication in the report why test pumping of existing wells was not consider to gather preliminary data on the local ground water resources. Section 3.8 of the RDEIR made no attempt to consider the use and development of local ground water resources to provide domestic water for this project. A mutual water company using the local ground water resources consistent with current land uses and would not require EBMUD to extend its Urban Limit Line. 4

4) In Appendix J, Section 3, Page 3-1 of the RDEIR the formation of a mutual water company is discussed as the alternative to wheel drinking water to the project by paying EBMUD for the use of capacity in its water distribution system to wheel CPUD water to the proposed project. A mutual water company could be formed to develop and utilizes the ground water resources beneath the Northern Site and the Southern Site and infrastructure to provide potable water to the proposed project. Why was this alternative not considered as option for providing potable water to the proposed project? I suspect that the proponents of the project did not want to incur the up front capital costs associated with the construction of drinking water wells, conducting the source capacity on the drinking water wells to demonstrate that sources are adequate to meet demand, securing easements, the engineering cost associated for designing a water system, the installation the distribution system 5

infrastructure including storage, water quality monitoring, and the installation of water treatment facilities if the a primary drinking water standard is being exceeded. The cost of constructing drinking water wells and the source capacity testing of the drinking water wells could cost close to a million dollars or more. The 46 af/yr of is average annual demand water demand for the project. The cost to the developer for 46 af/yr of transfer water annually would be $11,500. Aagain it appears that this proposed water transfer will adversely impact the economic development of the communities (Mokelumne Hill, San Andreas, Paloma, Glencoe) within the district to insure the development rights and economic benefits of the proponents of Tassajara Park in Contra Costa County. The water transfer agreement as currently drafted provides little benefit to this public utility and is a bad deal for the public that owns the water utility. It appears the public that owns CPUD is subsidizing the project proponent for Tassajara Park. The terms of the water transfer of specify the amount of 100 af/y this over a 200% of the annual demand 46 af/yr. There are no incentives in the terms that encourage water conservation. The case was not made in the Appendix J that project will need a 100 af/yr. There are vague references to water losses in distribution system infrastructure and the need for an emergency reserve. I suspect the water in excess of 46 af/yr (54 af/yr) will be given to EBMUD as compensation to wheel the water through its distribution system even during a curtailment order as the water right from Schaad's Reservior has a priority date of 1852. 5 CONT

5) If a mutual water company was formed to supply water to the project it would be public water system and classified as community water system as it serves 25 or more year long residents. Section 64400.10.of Title 22 of the California Code of Regulations (CCR) states "Community water system" means a public water system which serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents. Since the water system would be less than 200 connections the Contra Costa County Environmental Health Department as the Local Primary Agency (LPA) would have regulatory oversight for the water system and be responsible for permitting the water system. Section 64554(a) of Title 22 of the CCR states "(a) At all times, a public water system's water source(s) shall have the capacity to meet the system's maximum day demand (MDD). MDD shall be determined pursuant to subsection (b)." Can the LPA issue a domestic water supply permit for a community water system to serve a future housing development when the sole source of water will not be available in 50 years? This appears to be inconsistent with section 64554 (a) of Tile 22 of the CCR. The issuance of a new domestic water supply permit is discretionary. Has the LPA and the California Division of Drinking been contacted as responsible agencies? What is their policy regarding the issuance of new domestic water supply permit for community water system with a sole source that is term limited? The Appendix J and section 3.13 of the RDEIR do not indicate the source water that will be used for potable water to the project after the 50 year term has expired. What will be the source(s) for potable water after the 50 year term has expired? There is no statement in the report stating that the CPUD is under no legal obligation to transfer water after the 50 year term has expired. If there is no other water source available to serve the development from the project is there any obligation that CPUD to continue transfer water? Will notices be recorded on the deeds of all parcels created by the project that the water source for potable water is term limited and will not be available after 50 years from the date that the water transfer was executed to inform prospective buyers? The terms of the water transfer do not address CPUD's liability in the event that dam for Schaads Reservoir fails or is comprised to such an extent that it cannot impound the necessary water or control its release. The terms of the water transfer do not address CPUD's liability in the event of a natural disaster such as a landslide that could restrict or preclude the release of the water from Schaads Reservoir. 6 7

6) Below are excerpts from the Chapter 16 (Waterworks Standards) of the Title 22 of the CCR for reference as they are related to determining the source capacity if a mutual water company is created that uses the local ground water resources or wheels water.

§64551.30. Maximum Day Demand (MDD).
"Maximum day demand (MDD)" means the amount of water utilized by consumers during the highest day of use (midnight to midnight), excluding fire flow, as determined pursuant to Section 64554. 8

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§64551.40. Source Capacity.

"Source capacity" means the total amount of water supply available, expressed as a flow, from all active sources permitted for use by the water system, including approved surface water, groundwater, and purchased water.

§64554. New and Existing Source Capacity.

(a) At all times, a public water system's water source(s) shall have the capacity to meet the system's maximum day demand (MDD). MDD shall be determined pursuant to subsection (b).

(1) For systems with 1,000 or more service connections, the system shall be able to meet four hours of peak hourly demand (PHD) with source capacity, storage capacity, and/or emergency source connections.

(2) For systems with less than 1,000 service connections, the system shall have storage capacity equal to or greater than MDD, unless the system can demonstrate that it has an additional source of supply or has an emergency source connection that can meet the MDD requirement.

(3) Both the MDD and PHD requirements shall be met in the system as a whole and in each individual pressure zone.

(b) A system shall estimate MDD and PHD for the water system as a whole (total source capacity and number of service connections) and for each pressure zone within the system (total water supply available from the water sources and interzonal transfers directly supplying the zone and number of service connections within the zone), as follows:

(1) If daily water usage data are available, identify the day with the highest usage during the past ten years to obtain MDD; determine the average hourly flow during MDD and multiply by a peaking factor of at least 1.5 to obtain the PHD.

(2) If no daily water usage data are available and monthly water usage data are available:

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CONT

(A) Identify the month with the highest water usage (maximum month) during at least the most recent ten years of operation or, if the system has been operating for less than ten years, during its period of operation;

(B) To calculate average daily usage during maximum month, divide the total water usage during the maximum month by the number of days in that month; and

(C) To calculate the MDD, multiply the average daily usage by a peaking factor that is a minimum of 1.5; and

(D) To calculate the PHD, determine the average hourly flow during MDD and multiply by a peaking factor that is a minimum of 1.5.

(3) If only annual water usage data are available:

(A) Identify the year with the highest water usage during at least the most recent ten years of operation or, if the system has been operating for less than ten years, during its years of operation;

(B) To calculate the average daily use, divide the total annual water usage for the year with the highest use by 365 days; and

(C) To calculate the MDD, multiply the average daily usage by a peaking factor of 2.25.

(D) To calculate the PHD, determine the average hourly flow during MDD and multiply by a peaking factor that is a minimum of 1.5.

(4) If no water usage data are available, utilize records from a system that is similar in size, elevation, climate, demography, residential property size, and metering to determine the average water usage per service connection. From the average water usage per service connection, calculate the average daily demand and follow the steps in paragraph (3) to calculate the MDD and PHD.

(c) Community water systems using only groundwater shall have a minimum of two approved sources before being granted an initial permit. The system shall be capable of meeting MDD with the highest-capacity source off line.

(d) A public water system shall determine the total capacity of its groundwater sources by summing the capacity of its individual active sources. If a source is influenced by concurrent operation of another source, the total capacity shall be reduced to account for such influence. Where the capacity of a source varies seasonally, it shall be determined at the time of MDD.

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Section 2.5.3 of Appendix J "Estimated Maximum Day Demand (MDD) of Forecast Annual Water Demand" page 2-13 states that a water demand of 46 af/yr of average annual demand translates into an average daily demand (ADD) of approximately 41,000 gallons per day. In section 2.3.3 page 2-7 its states that in respond to a request, EBMUD provided Alamo Creek customer use data for 2013 for about 300 homes. This data was used to validate the project annual water usage of 46 af/yr of average annual demand and an average daily demand (ADD) of approximately 41,000 gallons per day. If a mutual water company is formed to wheel water from EBMUD or use local ground water resources the method for determining the projected MDD must conform to section **§64554 of Title 22 of the CCR in particular section 64554 (4) if no water usage data are available (see paragraph above for citation).** Furthermore section 2.5.3 of Appendix J concludes that the accurate estimated of the MMD can be made multiplying the ADD by a factor of 2.0 or lower. Page 2-14 of this section states "Because high percentage of consistent indoor use, and the limited addition of irrigation demands due to recently increased MWELO restrictions, the MDD for the Proposed Project will more likely be a factor of 2.0 or lower." Section 64554 (3)(D) of the CCR requires multiplying the AAD by factor of 2.25 to calculate the MDD **if no water usage data are available(see paragraph above for citation).**

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Using the ADD of 41,000 gallons per day multiplied by 2.25 the MDD would be 92, 250 gallons. A MDD demand of is equal to a daily flow in gallons per minute (gpm) of approximately 64 gpm. Section 64554 (c) of Tile 22 of the CCR States "Community water systems using only groundwater shall have a minimum of two approved sources before being granted an initial permit. The system shall be capable of meeting MDD with the highest-capacity source off line." If mutual water company uses local ground resources it would need a minimum of two drinking water wells that have a yield of at least 64 gpm. A well with a yield of 64 gpm operated continuously for 24 hours will meet the MDD of 92,250 gallons. The average daily demand of 41,000 would require a well with yield of 64 gpm to run approximately 10.7 hours per day. In order to meet the Title 22 requirements for source capacity multiple drinking water wells maybe necessary. As indicated in statement 3 and 3 above no attempts were made to evaluate the use of the local ground water resources to meet the water needs of the project. The use local ground water resources could be viable option for the proposed project. It has not been considered by the project proponents because of the costs associated with conducting the necessary investigative to determine if the local ground water resources are of sufficient quantity and quality to provide potable to the project. Why would the project proponents make the upfront capital cost to investigate and develop the water sources and distribution system infrastructures for mutual water company when with extra-jurisdictional water grab that will limit their cost to $11,500 a year for 46 af/yr.

Please confirm your receipt of these comments by reply email at your soonest opportunity. Thank you.

Sincerely,

Richard Blood

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Richard Blood (BLOOD)

Response to BLOOD-1
As explained further in Master Response 1: Water Supply and Distribution, the Project no longer proposes to utilize water from CPUD.

Response to BLOOD-2
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution. Please also refer to Response to CPC-3 regarding noticing.

Response to BLOOD-3
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to BLOOD-4
A WSE report was prepared for the Project to assess available sources of water supply (Appendix J of the RDEIR). The WSE identifies sources of the potable water to meet Project demand. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to BLOOD-5
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution. See also Response to Blood Comment 4, above.

Response to BLOOD-6
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to BLOOD-7
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to BLOOD-8
The comment is noted. The information in this comment are excerpts from the California Code of Regulations provided for reference, and no comment in necessary.

Response to BLOOD-9
As discussed in the Response to Comment BLOOD-4, available information is not consistent with groundwater being a viable source. See also Master Response 1: Water Supply and Distribution, explaining that the CPUD option is no longer being pursued.

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John Oborne

From: Ray Brant <r_abrant@sbcglobal.net>
Sent: Monday, November 14, 2016 3:48 PM
To: John Oborne
Subject: Tassajara Parks EIR comments

Dear Mr. Oborne:

Please email me to confirm receipt of this email and its being entered into the comment record for the draft EIR for the Tassajara Parks proposed 125-unit development. This development is outside the voter-approved Urban Limit Line in the Camino Tassajara Valley on Agricultural-designated land.

Thank you,
Raymond F. Brant
PO Box 728
Diablo

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As a resident of Diablo I am concerned that our community will be impacted in a negative way by this development. I would ask that the EIR be re done to include the areas mentioned that have not been considered.

1. *IN THE EIR THERE IS NO COUNT OF BICYCLISTS THAT USE THE ROADS AFFECTED BY THE PROJECT'S INCREASED CAR TRAFFIC AND THERE IS NO ANALYSIS OF THE NEGATIVE IMPACT OF THAT INCREASED CAR TRAFFIC ON THE SAFETY OF THOSE BICYCLISTS.* Clearly, bicyclist safety will be eroded by the large increase in traffic generated by the project. Were such an analysis to be done, we believe there would be a significant negative impact from that traffic requiring mitigation before the project could be approved.

Camino Tassajara and its tributary roads, such as Highland Road, are popular routes for bicyclists. Blackhawk Road, which begins just west of the Tassajara Parks project at its intersection with Camino Tassajara, is a highly popular route for bicyclists going to and from Mt. Diablo Scenic Boulevard for the ride up Mt. Diablo. Please see the letter from the Diablo Community Services District below, discussing the more than 80,000 bicyclist trips per year in the Diablo Road/Blackhawk Road corridor associated with entry to and exit from Mt. Diablo State Park via Mt. Diablo Scenic Blvd. **There are no bicyclist lanes on Camino Tassajara from about Finley Road east. Also, there are no bicyclist lanes on Blackhawk Road from Camino Tassajara to Mt. Diablo Scenic Blvd., nor are there bicycle lanes on the incredibly dangerous stretch of Diablo Road from Blackhawk Road to Green Valley Road. The Tassajara Parks project will increase car traffic on all those roads and intersections, which are now extremely dangerous for bicyclists, and therefore make those roads even more dangerous for bicyclists.**

2

Th EIR does not mention Bicycle accidents and fatalities in the area of impact of this development.

2. *THE EIR HAS NO ANALYSIS OF THE NEGATIVE IMPACT OF THE INCREASED CAR TRAFFIC FROM THE PROJECT ON EXISTING SEVERE CONGESTION AT THE BLACKHAWK ROAD/MT. DIABLO SCENIC BLVD. INTERSECTION; THE DIABLO ROAD/GREEN VALLEY INTERSECTION; THE GREEN VALLEY ROAD/BLEMER ROAD INTERSECTION; THE GREEN VALLEY ROAD/STONE VALLEY ROAD INTERSECTION; THE DIABLO ROAD/EL CERRO BLVD. INTERSECTION; AND THE 680 INTERSECTIONS WITH EL CERRO BLVD. AND DIABLO ROAD.*

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Car traffic on Blackhawk Road and all the intersections described above will increase because of the Tassajara Parks development. The high school for the development is Monte Vista High School, on Stone Valley Road. Getting to high school will require that the students and their parents and caregivers travel from Camino Tassajara to Blackhawk Road through the Mt. Diablo Scenic intersection onto Diablo Road, then through the Green Valley intersection onto Green Valley Road, through

the Blemer and Cameo intersections to the Stone Valley intersection and onto Stone Valley Road. Some students may also end up going to Green Valley Elementary and Los Cerros Middle School, traveling the same route. Moreover, Blackhawk/Diablo Road corridor will be used for many Tassajara Parks residents to get to Highway 680 North, and to downtown Danville.

It is likely that the Tassajara Parks development could cause a significant negative impact, either by itself or cumulatively, on the above-mentioned roads and intersections. **Accordingly, the EIR needs to be revised and recirculated to discuss those impacts and offer mitigation.**

3 CONT

3. The MOU by its very name is not a "Preservation Agreement". Nothing is in fact to be preserved through the MOU and it creates no enforceable obligations for its signatories to preserve any land. Rather, the MOU is just an illegal attempt to circumvent the actual requirements of the ULL law. The MOU should be discarded. In fact, the MOU is a wolf in sheep's clothing which will be used to approve endless projects extending the ULL in the Tassajara Valley until suburban sprawl covers every last potentially developable acre there.

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Diablo Community Service District Letter dated February 2, 2015

D. DIABLO COMMUNITY SERVICES DISTRICT LETTER

P.O. BOX 321

DIABLO, CA 94528

February 2, 2015

Honorable Candace Andersen

County Supervisor, District 2

309 Diablo Road
Danville, CA 94526

Honorable Mary Piepho

County Supervisor, District 3

3361 Walnut Boulevard, Suite 140
Brentwood, CA 94513

Dear Supervisors Andersen and Piepho:

We are writing to ask for your assistance in rectifying the intolerably dangerous conditions for motorists, bicyclists, and pedestrians in the community of Diablo and in the Diablo Road corridor between Green Valley Road and Mt. Diablo Scenic Blvd. Each of your districts covers a portion of that area.

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As you are likely aware, Diablo Road is the gateway to Mt. Diablo State Park for many tens of thousands of bicyclists every year and the number is steadily increasing. In fact, we believe that the number of bicyclists traveling Diablo Road to get to the Park during the 2012/13 fiscal year was probably upwards of 40,000 judging from the following California State Park System Statistical Reports, found at http://www.parks.ca.gov/?page_id=23308 .

California State Park System Statistical Reports

Fiscal Year of Report	Free Day Use (entering through the north or the south entrances)
2012/13	79,824 (page 21)
2011/12	74,631 "
2010/11	66,965 (page 21)
2009/10	63,845 "
2008/09	53,918 "
2007/08	47,693 "

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The "Free Day Use" statistical category is almost exclusively bicycle traffic, rather than pedestrian; very few pedestrians enter the park through either of the two entrance gates because those gates are too far from residential neighborhoods and parking areas outside the park. 5 CONT

Bicycle counts for 2014 (which haven't yet been officially published) received from Park Superintendent Ryen Goering (Contra Solano Sector Superintendent, California State Parks) indicate that more than half of the counted bicyclists typically enter through the south gate. So that implies that for 2012/2013, over 40,000 cyclists entered the Park through the south gate. And that number is clearly an underestimate, according to Superintendent Goering and Supervising Ranger Dan Stefanisko, because many cyclists enter the gates when due to understaffing there is no ranger there to count them.

Based on our observations and information from local bicyclists, we believe that the vast majority of those 40,000+ bicyclists using the South Gate entrance travel east along Diablo Road from Green Valley Road to Mt. Diablo Scenic Blvd. to get there, rather than traveling from Blackhawk Road west to Mt. Diablo Scenic. Most of those bicyclists then travel west along Diablo Road as they return home. In addition some of the bicyclists entering through the north gate park entrance subsequently exit the park through the south gate and then travel west along Diablo Road. So it is reasonable to believe that in fiscal year 2012/2013 there were over 80,000 bicyclist trips on Diablo Road associated with travel to and from Mt. Diablo State Park.

Furthermore, there has been a tremendous 67% increase in bicyclists between fiscal years 2007/2008 and 2012/2013, and there is every reason to believe the numbers will continue to grow.

The tremendous numbers of bicyclists coupled with the high volumes of traffic on Diablo Road have created an intolerably dangerous situation. Although Diablo Road west of Green Valley Road has safe bicycle lanes in both directions, the 1 ½ mile stretch of Diablo Road east of Green Valley Road to Mt. Diablo Scenic Blvd. ("the stretch") is narrow, winding, upslope, with virtually no shoulders, limited sightlines, and no bicycle

lanes. The stretch is extremely congested with thousands of vehicles every day. Despite the double yellow lines the length of the stretch, many

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vehicles' drivers break the law as they veer across the lines to avoid the cyclists. Others slow to well below the speed limit, creating back-ups and the risk of rear-end collisions as they travel behind the cyclists.

Danville police accidents reports (attached) show that from 2005 until March 2014 there were 6 bicyclist accidents along the portion of the stretch patrolled by the Danville police. The number of accidents is undoubtedly much higher because of the following: 1. the reports do not even identify whether there was a car or bike involved in many of accidents; and 2. the reports do not include accidents reported to the California Highway Patrol, which patrols the one-mile northern portion of the stretch that is contiguous to the community of Diablo. Most importantly, the accident reports do not reflect the conditions on the dangerous portion of Diablo Road contiguous to the community of Diablo because almost all of the bicyclists avoid that portion by cutting through the community of Diablo. But for the cutting through, there would be far more---and likely some fatal--- bicycle accidents.

That diversion of cyclists does not solve the problem of public safety, however. The influx of cyclists into Diablo has merely has moved the dangerous condition from Diablo Road onto Diablo's even more constrained residential streets. As you know, Diablo's streets are narrow and winding, have no sidewalks or even shoulders, and have limited sight lines. Moreover, Diablo's streets serve both as streets and walkways: pedestrians; baby strollers; young children on bicycles; dogs on leashes; automobiles; golf carts; and construction, service, and delivery vehicles travelling to and from the Diablo Country Club, the Diablo Post Office, and Diablo homes all compete for space. 5 CONT

The influx of ever more cyclists cutting through Diablo's residential streets to avoid dangerous Diablo Road has caused those streets to become unsafe for their intended users as well as for the cut-through cyclists themselves. The Diablo Community Services District, the government agency responsible for roads and public safety within the community of Diablo, is obligated to act to resolve this dangerous condition on our roads.

We believe that the best way to solve the safety issues within our community is to address the dangerous situation on Diablo Road. The solution is obvious: if Diablo Road were made safe for cyclists and vehicles by adding bicycle lanes, cyclists would no longer need to divert into Diablo.

Accomplishing the goal of building safe Diablo Road bicycle lanes will require the cooperation and efforts of many interested parties. And prior to building the lanes, there are likely other

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short-term, inexpensive ways that could quickly improve safety somewhat along Diablo Road (for example, adding "Share the Road" signs; lowering speed limits and enforcing them; improving some of the sightlines).

The time to start is now, before there are any more accidents, and before someone is killed. As you undoubtedly know, just a few days ago a cyclist was killed along Highland Road in unincorporated Contra Costa County. Like Diablo Road, the dangers there were well-known, but no one acted to improve safety on the road in time to prevent the cyclist's death.

As a first step toward improving safety, we ask that your offices convene a Diablo Road Public Safety Task Force, comprised of representatives from your offices, the Town of Danville, Diablo Community Services District, Diablo Property Owners' Association, Valley Spokesmen (a local bicyclist organization), Bike East Bay (an East Bay bicycle advocacy group), Save Mt. Diablo, Contra Costa Transportation Authority, and any other interested HOAs or groups. The long-term goal of the Task Force would be to obtain funding for the designing and building of safe bicycle lanes between Green Valley Road and Mt. Diablo Scenic Blvd. In the near term, the goal would be to make the road safer through inexpensive means such as road signs, lower speed limits, and more police enforcement until the lanes are built.

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CONT

Thank you so much for your consideration of our request. We look forward to hearing from you at your earliest convenience and, we hope, working with members of the proposed Task Force to address these urgent public safety matters.

Sincerely,

Raymond F. Brant

President

Diablo Community Services District

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Ray Brant (BRANT)

Response to BRANT-1
The comment does not raise any Project-specific environmental issues under CEQA, and, therefore, no response is required. Please see Master Response 4: General Comments.

Response to BRANT-2
The comment does not raise any Project-specific environmental issues under CEQA, and, therefore, no response is required. For informational purposes, it is noted that Cities and Counties are generally responsible for regional traffic facilities (with contributions to fund said facilities coming from applicable development impact fees and otherwise). The Project would pay its fair share of TVTD impact fees, which could then help fund the installation of these types of regional transportation improvement projects.

Please also refer to Response to SOS-D-2.

Response to BRANT-3
Please see Master Response 3: Transportation Analysis, as well as SOS-D-6.

Response to BRANT-4
Please refer to Master Response 2: Agricultural Preservation Agreement.

Response to BRANT-5
Please refer to Master Response 3: Transportation Analysis.

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John Oborne

From: Samesh Braroo <braroo@gmail.com>
Sent: Monday, November 28, 2016 4:05 PM
To: John Oborne
Subject: Protest Building Houses Next to THE School. It is the only thing we have left now. Please don't.

1

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Samesh Braroo (BRAROO)

Response to BRAROO-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Ella Brovitz <ellabro1@aol.com>
Sent: Sunday, October 23, 2016 8:06 PM
To: John Oborne
Subject: Tassajara Project

Mr. Oborne, I feel strongly that to reopen the urban limit line issue after it had been voted upon is not morally right. By allowing 30 acre bites into the land president is set for a continuing eating away of the land. 1

I live with my husband on Old School Road. This is a private road; we owners have to maintain it. I understood that as part of the proposed project, land was going to be allocated for horse trailers to park off Finley Road across from the entrance to our road. Have any of you seen where this entrance is located? It is right on a bend in the road and there would be no way they would see to safely exit that area onto Finley Road. Why set up for accidents and potential injuries? And once these horse trailers unload, can I be assured that these riders and horses are not going to travel down our private Old School Road where we would have to deal with the potential problems they could bring? (problems of disease, property damage, manure clean up to name a few). 2

I understand progress but I also understand that most of the residents in our area do not want their beautiful natural surroundings invaded. Most of the folks here purchased their land to be in the country away from traffic congestion and neighborhoods. I feel that many believe their way of life is threatened by this project.

Please consider these comments and share them with any other concerned folks.

Thank you.

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Ella Brovitz (BROVITZ)

Response to BROVITZ-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to BROVITZ-2

RDEIR impact TRANS-6, Section 3.12, Transportation and Traffic, page 3.12-82 provided an analysis of traffic safety in the vicinity of the Finley Road staging area, along with mitigation to enhance traffic safety. Horses are consistent with the existing Agricultural zoning and AL General Plan land use designation for the properties in question. However, as indicated above, the equestrian staging area is no longer a component of the Project.

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John Oborne

From: Dorthy Burt <doro.burt@gmail.com>
Sent: Wednesday, November 30, 2016 3:26 PM
To: John Oborne
Subject: R-DEIR Tassajara Parks Project

County File #s--GP07-0009, RZ09-3212, SD10-9280, DP10-3008

The R-DEIR for the Tassajara Parks Project is still inadequate. The issues previously raised have not been addressed or solved. The project does not have its own GLAD, piggy-backing onto a project down the road is not acceptable. The traffic and resulting negative air quality cannot be mitigated to acceptable levels. Of paramount importance to us in the Tassajara Valley, is the issue of ground water disruption (and what will be done to ensure we don't suffer the inadvertent consequences). An after-the-fact " OOPS! " is not a plan. 1

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Dorothy Burt (BURT)

Response to BURT-1

As discussed under Impact HYD-2, RDEIR Section 3.8, Hydrology and Water Quality, page 3.8-9 and-10, the Project would be served by EBMUD water. This source does not rely on groundwater, and no groundwater within the Project Site would be pumped for any aspect of the Project. Please refer to Master Response 1: Water Supply and Distribution, as well as Master Response 3: Transportation Analysis.

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John Oborne

From: cassara.daniel@gmail.com
Sent: Monday, November 28, 2016 9:45 AM
To: John Oborne
Subject: New Homes in Danville

Me Oborne-

My name is Dan Cassara and I am a resident of Blackhawk/Danville California. It is my understanding that the city of Danville/County of Contra Costa wants to build additional homes on the Eastside of Camino Tassajara near Tassajara Hills Elementary School.

I am a new resident to the area so be clear that I am not someone who does not want this community to grow. I am all for growth when It is warranted. What is unfortunate is the destruction of beautiful open space which is happening in many communities in the bay area. We are turning into Los Angeles and becoming overcrowded. A fact you can't deny.

In addition, the building of additional homes only means additional traffic, strained infrastructure, and harming the beautiful community that Danville is. 1

We have been residents of this county for over 20+ years and just moved to Danville because of its quaint feel and the fact that we did not think that it would grow much more. Areas like Fremont, Pleasanton, and the worst yet, San Ramon and Dublin have been ruined by the fact that homebuilders are allowed to destroy open space for the sake of a dollar.

I'm not sure if this "comment" period is legitimate or if this is happening no matter what, but I would urge you to please consider not putting the homes in Danville as I believe it will have an impact on many Danville residents who will likely move out of the area. My daughter goes to that elementary school and if these homes are built, we too will likely move out of the area or at best, have her change schools.

Thank you for the consideration...

Happy Holidays,

--

Daniel Cassara
cassara.daniel@gmail.com
925.577.3722

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Daniel Cassara (CASSARA)

Response to CASSARA-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Kristy Christensen <chatwithkristy@yahoo.com>
Sent: Wednesday, November 30, 2016 10:22 AM
To: John Oborne
Subject: 125 homes proposed to be built along Tassajara Rd in Danville,

Dear Sir,

Most of us in this Danville area do not want the Urban Line to be violated. More traffic, more polution, more danger. We have tried to fight this expansion of Tassajara many times and always the big money wins over. We live in Shadow Creek and have watched the expansion for over 24 years. Some how we are in the county and not the Danville area. Example - we can not use Danville community classes nor public works without extra pay or taxes. Nor can the closest police help us - it has to be ordered from the Sheriff from ALAMO. I was Grandma frauded and could not get any help at all from the Danville, Police. Result by the time two days later that the Sheriff deputy took the report , the frauder was gone and I was out $5,000. 1

Please do not crowd us out for the betterment of the already rich builders. The urban line needs to be protected not destroyed!!!

Richard Christensen
Lori Enright
Kurt Christensen
Karen Christensen
Kristine A. Christensen

555 Bourne lane
Danville, CA 94506

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Kristine Christensen (CHRISTENSEN)

Response to CHRISTENSEN-1

The commenter's opposition is noted, but does not raise any specific concerns regarding the adequacy of the CEQA document. No further response is required.

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John Oborne

From: Marie Cooley <marie@ralphproperties2.com>
Sent: Wednesday, November 30, 2016 4:51 PM
To: John Oborne; John Kopchik; Mary Piepho; Supervisor Candace Andersen; dburgis@ebparks.org; District5; John Gioia; SupervisorMitchoff; bclarkson@sanramon.ca.gov; sperkins@sanramon.ca.gov; dhudson@sanramon.ca.gov; poloane@sanramon.ca.gov; hsachs@sanramon.ca.gov; arnerich@danville.ca.gov; mdoyle@danville.ca.gov; rmorgan@danville.ca.gov; storer@danville.ca.gov; kstepper@danville.ca.gov; lblackwell@danville.ca.gov
Subject: Tassajara Parks Draft EIR - Tassajara Parks MOU

Hello,

The Ralph family has owned 960 acres (APN 006-160-012-8) in the Tassajara region for several generations. My grandparents purchased the land to farm and hold for future opportunities for the following generations.

The Tassajara Valley development project seems surrealistic. How can it be that so many landowners' properties will be adversely affected for the benefit of this development? To have the opportunity to use the land for the current owners' benefits is at stake. It feels as though our rights our being stripped away.

At one point Ralph Properties II was given permission to develop one house per 80 acres on our land. We had plans drawn up and roads cut. Now we may never have the opportunity to make our grandparent's dream reality. 1

From what is being said, it sounds as though the developer will be able to cash in on this project from basically throwing all the other landowners under the bus.

If you personally held property in the affected area how would you feel?

Marie Cooley

Ralph Properties II Managing Member, LLC

Administrative and Financial Manager

Ralph Properties II

Agriculture + Alternative Energy

Honoring California's history, powering its future.

Marie Cooley (COOLEY)

Response to COOLEY-1

The commenter's opposition is noted, but the commenter does not raise any specific concerns regarding the adequacy of the CEQA document. No further response is required. Please also refer to Master Response 2: Agricultural Preservation Agreement, and Master Response 3: Transportation Analysis.

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John Oborne

From: MDashe@aol.com
Sent: Monday, November 28, 2016 11:18 AM
To: John Oborne
Subject: no more new homes!

The members of my household and I strongly object to the potential construction of .more new homes in the vicinity of Tassajara Hills Elementary School.

Since the construction of all the new homes and middle school in the area in recent years, traffic has become congested and at times, dangerous.

Adding more new homes will create an even more dangerous situation. 1

We relocated here more than 14 years ago in order to live in a more peaceful and less congested area. If the congestion increases any further, we will strongly consider relocating out of state, to a quieter area with less oppressive taxes, and a less absurdly liberal populace!

Murray Dashe
316 Pheasant Run Drive
Danville, CA 94506

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Murray Dashe (DASHE)

Response to DASHE-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: john and denise defazio <johndefazio@comcast.net>
Sent: Tuesday, November 29, 2016 9:33 AM
To: John Oborne
Cc: Supervisor Candace Andersen; District3
Subject: Tassajara Parks Housing Project

Dear Mr. Oborne,

I just reviewed the RDEIR for the Tassajara Parks Housing project, including the traffic study. As much as I love the beautiful, rural area of the Tassajara Valley and hate to see it riddled with high density housing, I understand I have no control on stopping any of these projects.

However, I would like to voice my concerns about the traffic impacts the project will create and my opposition to the project.

I would like more information on how we are going to control the increase in traffic.

I live on Lawrence Road in Danville and currently experience the severe traffic congestion on Camino Tassajara, Crow Canyon Road, Dougherty Road, Bollinger Canyon Road and Sycamore Valley Road. It currently takes my daughter on average 30+ minutes to travel from our home to Cal High school in the mornings – 7.8 miles. My other children travel daily to Cal State East Bay which takes over an hour. It takes us on average 25+ minutes to drive from our house to highway 680 almost any time of the day. The intersection at Camino Tassajara/Crow Canyon Road is always congested and very dangerous. Getting on 680 at Bollinger or Crow Canyon Road is a joke. Often times the cars use the residential side streets to avoid the congestion at the main intersections, which also is unsafe. 1

I was hoping you could provide me with more information on how the traffic situation is going to be improved and what the housing project is going to do to help (other than pay county fees which do nothing).

Thank you,

Denise DeFazio

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Denise DeFazio (DEFAZIO)

Response to DEFAZIO-1

Traffic operations at Camino Tassajara intersections and along Interstate 580 (I-580) and Interstate 680 (I-680) freeway segments were analyzed in accordance with the relevant agencies' requirements, protocols, and industry standards. The traffic analysis identified all significant Project-related traffic impacts, and also identified feasible mitigation that would be imposed as enforceable conditions, as discussed in the TIA and Section 3.12, Transportation and Traffic, of the RDEIR. The Project applicant has voluntarily agreed to make improvements to enhance parking and circulation at Tassajara Hills Elementary School based on the Project's traffic consultant's recommendations and in consultation with the School District, and has incorporated these improvements as project design features.

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John Oborne

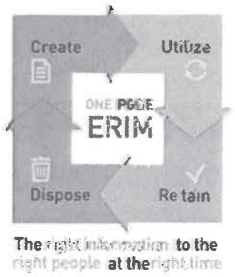
From: Eansor, Maria P <MPE1@pge.com>
Sent: Monday, November 28, 2016 8:14 AM
To: John Oborne
Cc: timmyapierce@gmail.com
Subject: Comment on the Development near Tassajara Hills

Good Morning John,

I would like to submit a formal compliant in protest of the proposed development near Tassajara Hills Elementary. Traffic in the area is already congested, parking is rarely available, not to mention getting in and out of the school during drop off and pick up time periods. Adding more houses without more infrastructures like parking, schools and expanded roads will be unsafe. Our community is already "jammed packed" with houses and is losing the quaint and charming feel Danville once had. Over the past 8 years that I've lived in the area, I've experienced a significant increase in traffic on Camino Tassajara. What used to take 7-8 minutes driving now takes 15-20 minutes. It has impacted our quality of life significantly. I support the rejection and denial of the request for the proposed housing development. 1

Would you please let me know if I need to send this to city council members and/or other participating members.

Thanks,
Maria



Maria Eansor | Business Analyst, Principal
PG&E | Gas Records and Information Management
6111 Bollinger Canyon Road, San Ramon, CA 94583
((o) 925.328-6350 | ((m) 415-336-1913 | * mpe1@pge.com

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Maria Eansor (EANSOR)

Response to EANSOR-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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November 29, 2016

Mr. John Oborne
Contra Costa County/
Dept. of Conservation and Development

Don &Carolyn Foster
8501 Camino Tassajara Rd
Pleasanton, Ca 94588
C# 925 963-0331

RE: Tassajara Parks Draft EIR & (MOU)

Dear Mr. Oborne,
Regarding the proposed Tassajara Parks Development We must strongly request that it be denied under the present application/use of a "ag enhancement MOU." As far as the project itself goes, we have no objections to the planned Development, which is at the Danville City Limits and within easy access to City Services; water and sewer.

As this project is in the sphere of influence of only Danville, it is Danville and the County who should have the say and approval of this project. San Ramon is nowhere close to this project and I believe their possible future sphere of influence is the Alameda/Contra Costa County Line to approximately Highland Road. To allow San Ramon to dictate the future of the Tassajara Valley with only a few votes of a City Council (3 out of 5) is unthinkable. 1

The "mou" as proposed is nothing more than the taking of Private Property without any due-process and compensation. If the intention is to illegally convert all privately owned property to "Open Space" then it must be purchased and paid for by the governing jurisdictions. 2

As it is commonly known, Tassajara Valley is not prime agriculture land. The soil is the worst, I believe classified as a "3" mostly clay, with only seasonal grasses grown. With no water, there cannot be "ag." 3

There is a lack of basic County Maintenance in the "Valley," even on the main traveled road. It is left up to the individual landowners to police up the roadside trash, which is left by the passing motorists, as well as weed control from the roadway to fence lines. Although the larger parcels of Tassajara are presumed to be in the "Williamson Act," the majority is not and we pay dearly at the residential/market rate. Which adds insult when an outside developer/jurisdiction wants to push their agenda at our expense. 4

As stated before, we have no objection to the development, but we vehemently object, if for approval it must use the "ag-enhancement MOU."

Sincerely
Don, Carolyn
And the Foster Family

Don and Carolyn Foster (FOSTER)

Response to FOSTER-1
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to FOSTER-2
Please see Master Response 2: Agricultural Preservation Agreement.

Response to FOSTER-3
The RDEIR, Section 3.2 Agricultural Resources, provides a complete analysis of the Project Site and confirms that there is no prime agricultural land.

Response to FOSTER-4
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Sue Frankel <suefrankel@sbcglobal.net>
Sent: Monday, November 28, 2016 8:34 AM
To: John Oborne
Subject: No more homes!!!

Please do not approve any more homes in the Tassajara area. We already have too much traffic and need open space. No one but developers can say this would be of benefit to our community. Please stop this now!!! Thank you!! 1
Susan Frankel
Sent from my iPhone

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Sue Frankel (FRANKEL)

Response to FRANKEL-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Nasser Gaemi <nasser@gcuniverse.com>
Sent: Monday, November 28, 2016 12:31 PM
To: John Oborne
Subject: Stop Tassajara Parks!!!

Mr. Oborne,

I live close to Tassajara Hill middle school. Our neighborhood has changed from a pleasant one to a traffic congested mess. Just visit the area in the mornings to see for yourselves. Its insane what its transformed into, and yet we're still approving for more homes to be built. How do these developers have so much influence over our elected officials? 1

Were do we need to go to petition such new development?

Regards,
Nasser & Mindy Gaemi
525 Garrigan Court
Danville, CA 94506

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Nasser and Mindy Gaemi (GAEMI)

Response to GAEMI-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Amy Gratteau <gratteauamy@hotmail.com>
Sent: Wednesday, November 30, 2016 4:09 PM
To: John Oborne
Subject: Tassajara Parks Project

Hi John,

I'm a Danville resident in the Alamo Creek community and it has come to my attention that there is a plan to build another 125 homes in the rolling hills just beyond Tassajara Hills Elementary School. I would like to voice my *strong* opposition to this project. We are relatively new to the area so I haven't experienced first hand the ongoing discussions regarding the land, but I am under the impression that citizens in the county voted to impose an Urban Limit Line back in 2006 and I question why it would ever be considered okay to go back on that promise and build urban housing beyond the line? Does that mean votes from the citizens can be ignored when other interests are involved? I'm sure you've heard from countless residents who are concerned about noise, traffic, environmental impact, overcrowding and the loss of one of the prime reasons people move to this area in the first place, the "open space" that surrounds our neighborhoods. I am strongly against letting Danville go the way of Dublin with their overbuilt, high rise condos seemingly everywhere you look. I believe any additional building will hurt property values which we all paid a dear penny for in the first place. 1

I'm not sure what kind of impact this little note might have, but I wanted you to know there is at least once concerned family out here in Danville that hopes the Supervisors agree to honor the voters intentions, turn down the opportunity to develop our precious hills and hold the urban limit line.

Thanks for listening.

Amy Gratteau

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Amy Gratteau (GRATTEAU)

Response to GRATTEAU-1

The comment is noted. Please refer to Section 2, Project Description, subsection 2.2.6 of the RDEIR for discussion of the MOU. Please also refer to Master Responses 2: Agricultural Preservation Agreement. In addition, please see CEQA discussion in the RDEIR regarding traffic (Section 3.12); land use (Section 3.9); agricultural resources (Section 3.2); and aesthetic resources (Section 3.1) for additional information regarding these issues. Please also refer to Master Response 4: General Comments.

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John Oborne

From: Sunita gupta <shaloksunita@gmail.com>
Sent: Tuesday, November 29, 2016 4:43 PM
To: John Oborne
Subject: Tassajara parks project

Dear John!
I live in Danville in one of the new development. All these new developments are pretty far from interstate adding to commute time and any more projects will cause more crowding. We pay more taxes than neighboring cities and would encourage to reconsider to preserve the rolling hills and the nightmare for commuters. 1

Thanks!

Danville Alamo Creek Resident

Sent from my iPhone

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Sunita Gupta (GUPTA)

Response to GUPTA-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Gaurab Hazarika <gaurab.hazarika@gmail.com>
Sent: Monday, November 28, 2016 2:46 PM
To: John Oborne
Subject: Please stop the upcoming construction near Tassajara Elementary School

Dear Mr. Oborne,

Good afternoon. I hope you are doing well. As a Danville resident, I am writing to you to stop the approval of the upcoming construction near the Tassajara Elementary School. Please let me know what else I could do to stop the approval. 1

Best,

Gaurab Hazarika

513-503-3808

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Gaurab Hazarika (HAZARIKA)

Response to HAZARIKA-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Terry Howland <thcestates@gmail.com>
Sent: Wednesday, November 30, 2016 4:24 PM
To: John Oborne; John Kopchik; Mary Piepho; Supervisor Candace Andersen; dburgis@ebparks.org; District5; John Gioia; SupervisorMitchoff; bclarkson@sanramon.ca.gov; Scott Perkins; dhudson@sanramon.ca.gov; poloane@sanramon.ca.gov; hsachs@sanramon.ca.gov; arnerich@danville.ca.gov; mdoyle@danville.ca.gov; rmorgan@danville.ca.gov; storer@danville.ca.gov; kstepper@danville.ca.gov; lblackwell@danville.ca.gov
Subject: Tassajara Parks Draft EIR

I would like to go on record as opposing the MOU 1

--
Thanks, Terry

Terrance E. Howland
THC General Building Contractor, Inc.
License #618078

Office 925-960-9172
Fax 925-960-9173
Cell 925-580-5221
E-Mail: THCestates@gmail.com

Mailing Address
P.O. Box 2138
Danville, CA 94526-7138

Shipping Address
1960 Marciel Road
Livermore, CA 94551

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Terrance Howland (HOWLAND)

Response to HOWLAND-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Sharon Jones <n2greens@sbcglobal.net>
Sent: Monday, November 28, 2016 10:17 AM
To: John Oborne
Subject: more homes

Mr. Oborne,

There are so many reasons ***NOT*** to allow for more houses to be built by the Tassajara Hills Elementary school. Surely, a more intense scrutiny of the effect on the *already* congested Camino Tassajara and the *already* impacted elementary school will reveal to you and your committee that this is not acceptable. 1

Please do ***NOT*** allow this to happen.

Sincerely,

SL Jones

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Sharon Jones (JONES)

Response to JONES-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. In general, residential development is considered to be compatible with school uses. Please also see Master Response 3: Transportation Analysis for further discussion of the Project's traffic impacts in relation to the Tassajara Hills Elementary School.

Regarding potential impacts on school capacity and enrollment, the RDEIR evaluated the Project's potential impacts on schools, and confirmed there would be less than significant impacts (RDEIR Section 3.11, Public Services and Recreation pp. 3.11-14). Consistent with SB 50, the ability to require mitigation of school facility impacts as a condition of approval is limited. The RDEIR included additional references to fees that could be imposed under SB 50 to offset potential effects of increasing enrollment.

The Project also voluntarily proposes to improve existing site parking and circulation deficiencies, by providing an additional westbound right turn lane on Camino Tassajara, and improving access for pedestrians from the Project Site to the school. These measures would improve traffic operations at the school and potentially shorten the time period of congestion at the school driveway, and have been incorporated as project design features.

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John Oborne

From: morgandhc@aol.com
Sent: Saturday, November 12, 2016 5:01 PM
To: John Oborne; John Kopchik; Mary Piepho; Supervisor Candace Andersen; dburgis@ebparks.org; District5; John Gioia; SupervisorMitchoff; bclarkson@sanramon.ca.gov; sperkins@sanramon.ca.gov; dhudson@sanramon.ca.gov; poloane@sanramon.ca.gov; hsachs@sanramon.ca.gov; arnerich@danville.ca.gov; mdoyle@danville.ca.gov; rmorgan@danville.ca.gov; storer@danville.ca.gov; kstepper@danville.ca.gov; lblackwell@danville.ca.gov
Subject: Tassajara Parks Draft EIR MOU

Dear Sir

It is wrong to move the Urban Limit Line without a vote of the people in the valley. This MOU is just a dishonest attempt by a develop to subvert the ULL. Please rejected the MOU. 1

Sincerely,

Roger Lake
10500 Morgan Territory Road
Livermore, CA
925/447-7980

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Roger Lake (LAKE)

Response to LAKE-1

Please see Master Response 2: Agricultural Preservation Agreement regarding the proposed Agricultural Preservation Agreement (formerly referred to as the MOU) and ULL. Please also refer to Section 2, Project Description, subsection 2.2.5 of RDEIR for a discussion of changes to the ULL.

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John Oborne

From: Thomas Leonard <linleo67@icloud.com>
Sent: Monday, November 28, 2016 4:43 PM
To: John Oborne
Subject: 125 new homes

Dear Mr. Oborne,

It has come to my attention that there is a plan to build 125 homes near Tassajara Hills Elementary School. We, as residents, are extremely concerned about the already massive development in this area, and another 125 homes is just too much. Our streets are becoming more crowded daily, and this will add more and more traffic, which will, no doubt, create the need for our roads to be widened. My husband and I are very much opposed to this, and do not want to see this happen. Also, how can more and more developments keep being approved when we are suffering a water crisis? It seems to me, there is no water crisis, or shortage of water, with all this massive development. We are being gouged for the price of our water, but the development continues, with no end in sight! This is not right. Please stop all this craziness, so we won't have bumper to bumper traffic, and build reservoirs instead, to ease our water crisis, and protect us, the citizens from lack of water. 1

Thank you,
Linda and Tom Leonard

Sent from my iPhone

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Linda and Tom Leonard (LEONARD)

Response to LEONARD-1

For a discussion of water availability, please see Master Response 1: Water Supply and Distribution.

The traffic analysis identified all significant Project-related traffic impacts, and it also identified feasible mitigation that would be imposed as enforceable conditions, as discussed in the TIA and Section 3.12, Transportation and Traffic, of the RDEIR.

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John Oborne

From: blin8558 <blin8558@sbcglobal.net>
Sent: Wednesday, November 30, 2016 4:02 PM
To: John Oborne
Cc: Mary Piepho; Supervisor Candace Andersen; dburgis@ebparks.org; District5; John Gioia; SupervisorMitchoff; John Kopchik; bclarkson@sanramon.ca.gov; sperkins@sanramon.ca.gov; dhudson@sanramon.ca.gov; poloane@sanramon.ca.gov; hsachs@sanramon.ca.gov; arnerich@danville.ca.gov; mdoyle@danville.ca.gov; rmorgan@danville.ca.gov; storer@danville.ca.gov; kstepper@danville.ca.gov; lblackwell@danville.ca.gov
Subject: Tassajara Parks RDEIR comments - against MOU

Dear John,

We are writing to let you know that we are strongly against the MOU based on the following points:

1. The MOU was written by the Tassajara Parks developer in order to allow the project to move the ULL without a public vote.

2. Tassajara Parks can move the ULL without the MOU by using an alternate finding in the County code. However, the MOU is the easiest way for the project to move the ULL.

3. The MOU restricts the extension of municipal water into Tassajara for residential use.

4. The MOU will be voted on before Tassajara Parks is voted on - meaning that the MOU could be approved and Tassajara Parks denied, and the MOU would remain in place regardless.

5. The MOU is permanent and has no expiration, unlike the ULL which expires in 2026.

6. The MOU actually encourages development in Tassajara, by providing a legal path for future projects to move the ULL without a public vote. A developer simply needs to contribute $4M and 500 acres of open space to the County in order to move the ULL without a public vote. The $4M amount was decided through an unfair private negotiation between the developer and the County. Those ultimately affected by the agreement, the residents of Tassajara, had no input in this decision.

1

Thank you very much for your considerations.

Tzen-Wen Guo
Bih-Wan Lin
Property owner of 5950 Bruce Drive, Danville, CA
(925)683-8086

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Bih-Wan Lin and Tzen-Wen Gou (LIN)

Response to LIN-1
The commenter does not raise issues related to the environmental analysis in the RDEIR.

Please refer to Master Response 4: General Comments. However, for information purposes, the following information is provided:

The ULL was established in 1990 with voter approval of Measure C, and was originally set to expire in 2010. Public commitment to the ULL was reaffirmed through overwhelming voter support of Measures J-2004 and L-2006, the latter measure extending the term of the ULL through 2026. It is reasonable to expect that County voters will be given another opportunity to extend the term of the ULL sometime during the 2020-2026 voting cycles. While another extension certainly cannot be guaranteed, voters have thus far demonstrated a 36-year commitment to the ULL concept and there is no reason to expect public sentiment regarding the ULL to significantly change in the near future.

Please also see Master Response 2: Agricultural Preservation Agreement.

Please note that each agency signing the Agricultural Preservation Agreement is exercising its authority under the police power and/or other applicable laws and regulations to re-affirm its existing policies and goals with respect to agricultural preservation and open space. The Agricultural Preservation Agreement reiterates where extension of municipal services can happen.

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Gretchen Logue
1111 Country Lane
Pleasanton, CA 94588
Logue.family1111@gmail.com

November 30, 2016

John Oborne, Senior Planner
Contra Costa County Department of Conservation and Development
30 Muir Road Martinez, CA 94553
Phone: 925.674.7793
Email: john.oborne@dcd.cccounty.us

Dear Mr. Oborne,

Thank you for the opportunity to comment on the Tassajara Parks Recirculated Draft Environmental Report.

3.1 - Aesthetics, Light, and Glare
Impact AES-1, AES-2 and AES-3 I

The DEIR study finding is inadequate in its conclusions that the impact is not significant and no mitigation is necessary. 1

The 30-acre proposed building site consists of a beautiful meadow in the spring. So beautiful that during the spring many people take photos of the wildflower display and the raptors soaring over the meadow looking for prey. Also, light from the housing development would impact the night sky and adversely affect nocturnal wildlife and stargazing.

This impact is significant and irreversible, and a more comprehensive study needs to be conducted.

3.2 - Agricultural Resources

The DEIR study finding is inadequate in its conclusions that the impact is not significant and no mitigation is necessary. 2

The 30-acre proposed building site consists of Farmland of Local Importance, currently used as grazing land and as a walnut orchard in the past. Once this land is changed to urban use, it will no longer be available to produce food.

Population	Contra Costa County
2010	1,094,000
2040	1,338,400
Projected Increase	244,440

Farmland Acres	Contra Costa County
1997	168,270
2012	127,670
Loss	40,600

Source Links – 1) www.farmlandlp.com 2) https://www.cdfa.ca.gov/statistics/ 3) https://www.agcensus.usda.gov/Publications/2002/Volume_1,_Chapter_2_US_State_Level/st99_2_008_008.pdf 4) http://www.dof.ca.gov/Forecasting/Demographics/projections/

2 CONT

This development is outside the Urban Limit Line, which the voters have overwhelmingly approved as a way to stop urban sprawl and to preserve farmland and open space. As you can see by the above charts, we cannot build a sustainable future by misusing our land. As our population grows, so will our need for food.

The impact is significant and irreversible, and a more comprehensive study needs to be conducted.

3.3 - Air Quality/Greenhouse Gas Emissions

This study is inadequate as it does not include the significance of building over a natural Carbon Sink. A new study ought to be conducted to show the true environmental effects of losing a 30-acre+ (with grading) Carbon Sink. I suggest that the 30-acre building site plus the wetland area remain ungrazed and allowed to return to its natural meadow/wetland area for a duration of two calendar years to determine the true air quality and greenhouse gas emissions this development will create.

3

The more accurate generated trips estimate of 2300 trips daily (please see Transportation and Traffic section) increases greenhouse gas emissions and decreases air quality and a new mitigation study ought to be conducted.

4

Please consult with wetland expert Thomas R. Biebighauser to design a wetland that will not only enhance wildlife habitat, but will also lower this development's carbon footprint. We are all interconnected, we must use our land more wisely and design for our future's sustainability.

5

This impact is significant and irreversible.

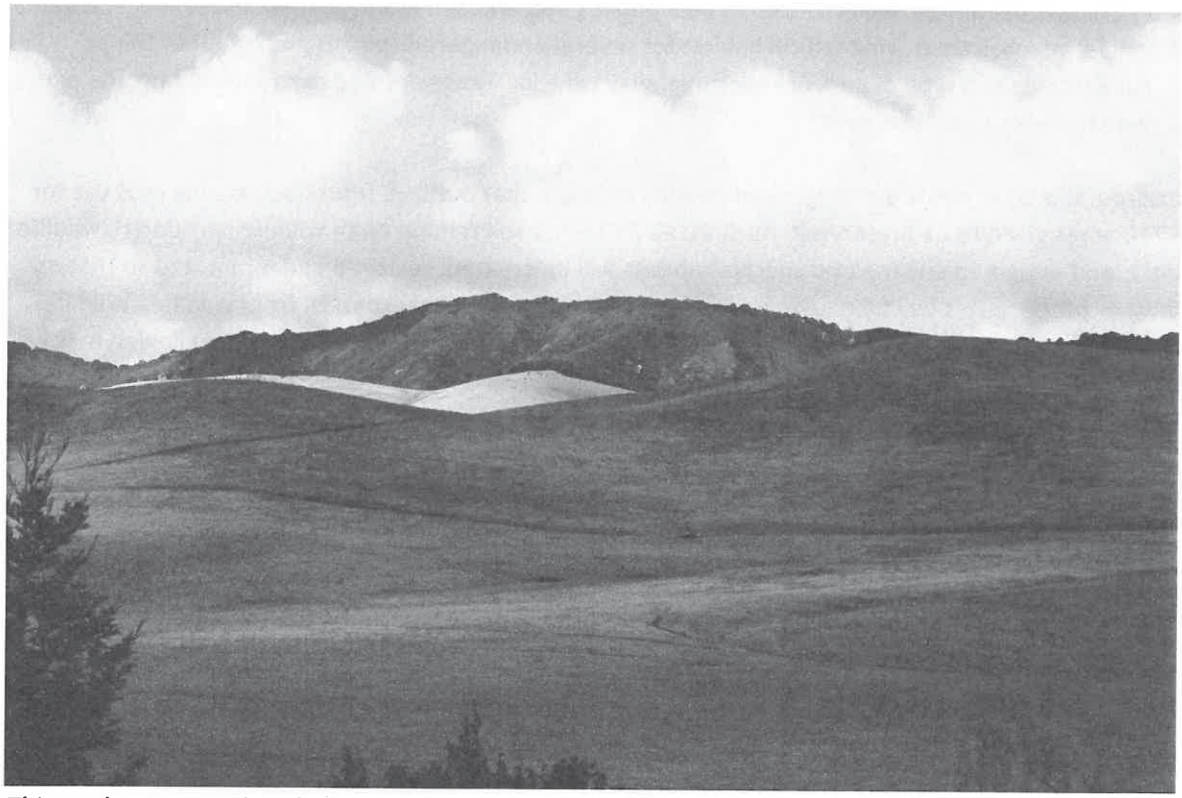
3.4 - Biological Resources

6

The 30-acre proposed building site is habitat and reproduction grounds for several endangered species. Because the land has been heavily grazed by cattle, this area that is a natural wetland and which would support vernal pool(s) are dried up prematurely because of lack of vegetation. Beginning after the heavy rains of early spring many frogs, including the endangered California Red Legged Frog (one only needs to be near the area in the evening to hear the frogs croaking), migratory birds (easily seen from street), possibly the Alameda Whipsnake and other amphibian species, are found on the proposed site, until the vegetation is eaten away by cattle and as a result pools of water dry up.







6
CONT

This study suggests that the San Joaquin Kit Fox has been extirpated from Contra Costa County, I disagree with that statement, as I have made several accidental observations of the elusive San Joaquin Kit Fox over the past 7 years.

As this study does address the issue of Nesting Raptors, it did not address the loss of hunting ground. The Red Shouldered Hawk in the photo above, hunts this land daily. The White Tailed Kite Frequently uses this hunting spot, along with Owls and other raptors.

This study is inadequate as it does not show the true take of endangered species and their habitat. A new more comprehensive study ought to be conducted by allowing the 30-acrea proposed building site plus the wetland area to remain ungrazed and allowed to return to its natural meadow/wetland area for a duration of two calendar years to determine the true take of endangered species and habitat. 6 CONT

Also, the reach of the contaminates/pollutants in the water released from the Tassajara Park's water basin into Tassajara Creek will far exceed the 30 acres, and the pollutants could potentially take many more endangered amphibians that will be exposed to the polluted water. Another study should be conducted to account for this inadequacy of the DEIR and should include the expertise from watershed and amphibian conservation organizations. 7

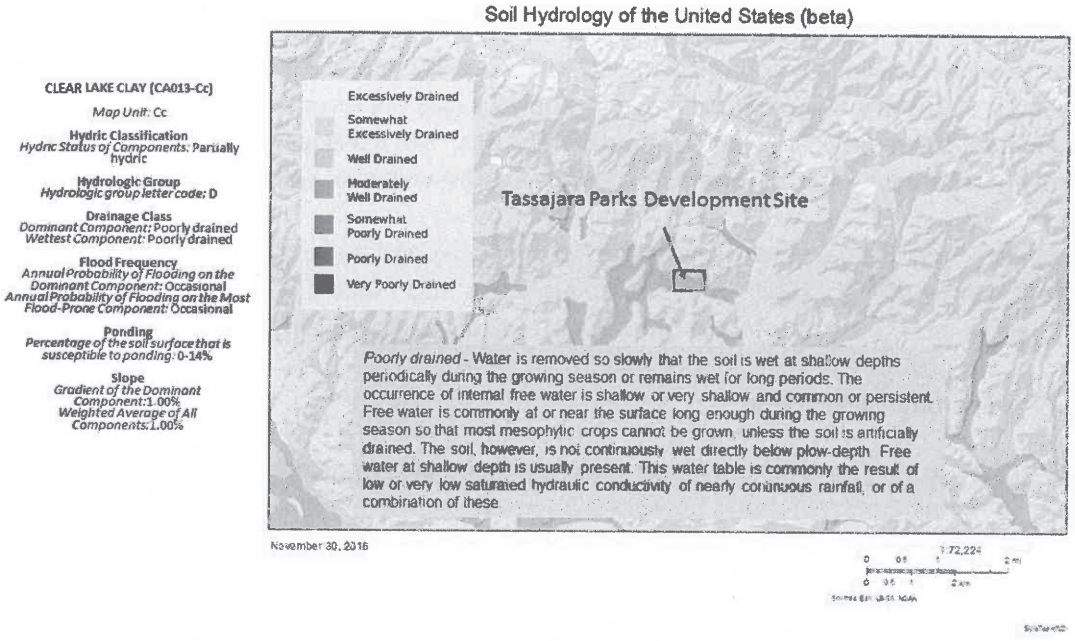
The wording in this DEIR is inadequate with regards to the 710 acres preserved in perpetuity for park, recreation, and wetland preservation and creation, and habitat for mitigation purposes. Parks and recreation development can have multiple meanings. Take Sharp Park in San Francisco for example; Sharp Park was deeded to San Francisco to be a public park, and San Francisco developed the land into a golf course, which is destroying critical habitat for several endangered species among other things. Another example of a type of park use is off-highway vehicle. These are two examples of how the park and recreation land could be used. 8

Therefore, this DEIR needs a stronger and clear description that outlines future acceptable land use for the 710 acres given to be preserved. Such as; all 710 acres will remain open wildlife corridor(s), wildlife habitat, and mitigated endangered species habitats will be created, restored and monitored so that no natural or other causes will take essential habitat, especially breeding grounds, from wildlife. Wildlife habitat will not to be disturbed by public access, and no grazing or agriculture use to be allowed that will negatively affect wildlife habitat or open corridor(s).

3.8 - Hydrology and Water Quality

Impact HYD-2: The Project would not deplete groundwater supplies or interfere substantially with groundwater recharge. The DEIR study finding is inadequate in its conclusions that the impact is not significant and no mitigation is necessary.

The proposed 30-acre site consists of wetlands, vernal ponds and is very likely to be a crucial groundwater recharge zone for the Tassajara Valley. Tassajara Valley residents depend solely on groundwater for our potable water. Not only will this development prevent water from soaking into the recharge zone, once it is released as "treated" water into the Tassajara Creek is will add pollutants to the watershed. The pollutants, such as herbicides, pesticides, oil and other contaminates, could potentially affect the quality of clean drinking water to Tassajara Valley residents and for native wildlife. Those contaminates could significantly affect the health of people in Tassajara Valley, native wildlife, heritage oaks, and the reproduction of amphibians. 9



The State of California considers groundwater to be a very important natural resource, so important that Governor Brown has signed into law the creation of the Sustainable Groundwater Management Act (SGMA). Although, this act concerns medium or high-priority groundwater basins in California and as far as I am aware the Tassajara Valley does not fall into that category, the land that the developer proposes for the 30-acre housing development, the staging area near Finley Road, and the 7 acres given to the SRVFPD, are all very likely to include recharge zones for Tassajara Valley's groundwater which feeds the Tassajara Creek and the Tassajara Valley residents' wells. I respectfully request that a long term study be conducted on all the parcels being considered for development, to determine the potential loss of groundwater and to determine how that will affect the Tassajara Valley watershed, aquifer and all Tassajara Valley Wells. Only then will we be able to determine the possible impacts to the Tassajara Valley watershed from the proposed development.

9
CONT

With the previous and continual development of local open space to create housing and other urban uses, the loss of potential groundwater recharge zones has been accumulating very quickly over the past 5-10 years. Many Tassajara Valley residents have seen their wells produce significantly less water, while others have seen their wells run dry. This serious issue of groundwater loss is a clear inadequacy of the DEIR, please do not approve this development or any other development outside the ULL without first conducting long term studies of the accumulative effect of groundwater loss due to developing open spaces that are important parts of the Tassajara Creek Watershed, groundwater recharge zones and wetlands which hold water and feed the Tassajara Valley's groundwater system.

More studies need to be conducted to fully understand the effects of building a retention basin at this location. This study needs to determine the effects of piercing the clay layer which could result in evaporation of groundwater.

3.9 - Land Use, Population, and Housing

Voters have overwhelmingly approved an ULL, which clearly draws the line between urban and non-urban uses. Approving this development would only weaken the current ULL policy and provide a precedent for future urban development outside the ULL. This development will permanently destroy sensitive and critical habitat, substantially degrade existing wetlands, watersheds and agriculture land. 10

It is my understanding that a review of the ULL is underway, and that the findings of this study show that there is ample land available within the ULL to grow and meet housing needs. Therefore, there is absolutely no need to change the ULL at this time to allow for housing developments.

3.12 - Transportation and Traffic

The Traffic study is inadequate and needs to be redone for at least the following reasons:

1) Refer to Table 3.12-6: Tassajara Parks Trip Generation. The estimated number of trips generated from the residential component of this development is underestimated. One can easily estimate that each home will have two cars, each person will leave and return at least once a day, that is an additional 500 trips a day. The main reason people move to this area and buy single family homes, is for the schools. Each school has different drop off/pick up times, and elementary schools have several drop off/pick up times. A scenario for Driver A in an average family with two children, assuming the children are in different grades, would most likely have two different drop off/pick up times. That means that a driver will leave and return to their home two different times (4 trips) before 9:00am (the number of trips increases with the number of children). To simply drop off/pick up two children to school would generate 1000 trips daily (weekdays). Then one needs to add shopping trips, trips back to school to volunteer, afterschool activities, misc. trips for Driver A. A closer conservative average estimate for Drivers A would be closer to 2000 trips daily. Drivers B, would most likely have fewer trips and a conservative estimate would be 300 trips daily. That brings the conservative daily total to 2300 trips. One may argue that weekends produce fewer trips, but many families are incredibility busy with activities on weekends, so as the number of trips on weekends may decrease slightly it is unlikely to be a significant difference of total daily trips generated. This estimate does not include regular trips from service and maintenance providers, such as housekeepers, landscapers, nannies etc. 11

This more accurate estimate only increases the already "Significant unavoidable impacts" to traffic congestion.

2) The Study does not adequately account for the accumulative traffic congestion from the housing developments currently under construction in Dublin and the Alamo Creek housing development in Danville, all of which feed Camino Tassajara and the significant increase of drivers over the past year using Camino Tassajara as a short cut from 580 to 680. 12

3) The Study grossly overlooks the following intersections along Camino Tassajara: 13

- Camino Tassajara/Bruce Drive
- Camino Tassajara/Johnston Drive
- Camino Tassajara/Highland Road (has a signal light)
- Camino Tassajara/The many residential Driveways

The Traffic Study needs to be redone, and if the development is approved, the developer ought to install signal lights at all of the above mentioned intersections, including the Camino Tassajara/Finley Road intersection, or the speed limit on Camino Tassajara should be reduced to 30mph to allow for safer entry onto Camino Tassajara. Please see mitigation plan below.

13
CONT

1) Keep Camino Tassajara 2 Lanes
2) Add Bicycle Lanes
3) Lower Speed Limit to 30 mph

4) Add Placemaker Sign at Lusitano or Mustang Soccer Field/Camino Tassajara and Restrict Through Traffic

5) Add stop sign/light to Finley Rd/Camino Tassajara

6) Add stop sign/light to Johnston Rd/Camino Tassajara

7) Add Placemaker Sign at Windemere/Camino Tassajara and Restrict Through Traffic (Location not shown on map)



Exhibit 2-10
Development, Preservation, and Potential Future Fire District Parcel
CONTRA COSTA COUNTY • TASSAJARA PARKS PROJECT
ENVIRONMENTAL IMPACT REPORT

Gretchen Logue
Unincorporated Contra Costa County Resident, Tassajara Valley
Email: Logue.family1111@gmail.com, www.tassajaravalleypa.org



4) The Study does not include impacts to bicyclists. Camino Tassajara, Finley Road, Highland Road and Diablo Road are very popular bicyclist routes. A new Traffic Study needs to include the impact to bicyclist safety.

5) Finley Road is a narrow road with blind curves. This road is frequented by bicyclist, runners, pedestrians including children, pedestrians with dogs, horseback riders, rural residential traffic, wildlife (including endangered species), and occasional farm equipment. Increasing traffic on this road, especially with large horse trailers is a serious safety hazard. No mitigation can remove the serious impact of an Equestrian Staging Area. This should not be allow under any circumstances. 14

This Staging Area will also increase crime in the Finley Road neighborhood, as it will be a dark, isolated place for folks to hang out at night. The Contra Costa County Sheriff's Department should be consulted on a study regarding the potential increase in crime this staging area will create.

The beloved Tassajara Valley Old School House is located directly across the street from the proposed equestrian staging area site. If this Staging Area is approved, the developer ought to have a special fund dedicated to the upkeep of this important landmark. As it is quite conceivable that it will be vandalized by folks hanging out at night in the staging area. 15

If the Staging Area is approved the following road improvements need to be made: a signal light to be placed at Camino Tassajara/Finley Road, speed limit reduced to 15mph, crosswalks at each intersecting road up to and including the Staging Area entrance, additional road signs placed at Camino Tassajara/Finley Road and along Finley Road, informing drivers of blind curves, pedestrian crossings, endangered species habitat, horseback riders, bicyclist etc. The Contra Costa County Sheriff's Department will also need to have a greater presence in the vicinity of the Staging Area. 16

6) The Study does not include the impact to native wildlife (including endangered species) living in Tassajara Valley who need to cross Camino Tassajara, Finley Road and Highland Road in order to survive. 17
The increased traffic from recently constructed housing developments in close proximity to Tassajara Valley have already had a significant negative impact on wildlife including injury and death. The speed limit should be reduced to 30mpr on Camino Tassajara and road signs informing drivers of blind curves, pedestrian crossings, endangered species crossing/habitat, bicyclist etc. The Contra Costa County Sheriff's Department will also need to have a greater presence on Camino Tassajara to enforce speed limit. 18

7) The Traffic Study states: Elementary School Driveway and Circulation Impact TRANS-4: The Project would not substantially increase traffic volumes and cause transportation facilities to degrade below acceptable standard levels at the Tassajara Hills Elementary School driveway.

This is an interesting proposal, the parking lot at THE is extremely congested at pickup and drop off. Although the SRVUSD states that the school is not at capacity, with regards to traffic congestion it certainly is at capacity. 19

It is in my opinion that the additions the developer is suggesting would not help the traffic situation significantly with the current enrollment numbers, and will not offset for the increased traffic that will occur with increasing the student population coming from the proposed housing development.

I request that a Traffic Study be done, that includes working with the Contra Costa County Sheriff's Department's, the THE PTA Safety Committee and THE Principal's, as they are very well aware of the dangers affecting the THE students with regards to our increasing traffic congestion. This development will also contribute to the increasingly dangerous traffic congestion on Camino Tassajara, for the THE students using the crosswalk to cross over Camino Tassajara, as more cars will be on the road in the vicinity. 19 CONT

3.13 - Utilities and Service Systems

The ripple effect of Tassajara Parks now seems to stretch to the Calaveras County water agency in an effort to broker a "water wheeling" deal. Tassajara Parks is proposing a 25 year water access deal with the CPUD which would allow access of 200 acre feet of water a year for Tassajara Parks, to be "water wheeled" by EBMUD. The mechanics behind the deal are fascinating. You see, the CPUD does not have the available water to sell from their "lower" Mokelume river access. What they would need to do is access water from a remote reservoir called Schaade reservoir that CPUD has senior water rights to. The "hitch" is that there is no water transportation infrastructure to that reservoir, so the CPUD would need to complete an $11M to build a new pipeline. They are hoping to get THAT funded from the State of California water improvement grants. I am very interested to see how this unfolds...is it legal to use taxes designated to an "underprivileged" area, Calaveras County, to ultimately end up serving a high-end housing development in Contra Costa County. Are tax payers unknowingly paving the way for Tassajara Parks? 20

It is my understanding the EBMUD has submitted comments on the inadequacy of this DEIR with regards to water service. 21

This DEIR should state that no storm water will be used and that no new wells will be drilled, and all existing wells will be permanently capped on the Northern site. If those items are not included then additional studies will need to be conducted to show impact. 22

Thank you for the opportunity to comment on the Tassajara Parks housing development.

Sincerely,
Gretchen Logue

Gretchen Logue
1111 Country Lane
Tassajara Valley Resident
Logue.family1111@gmail.com

July 28, 2016 ALSO REC'D 11/30/16 AS ATTACHMENT

Candace Andersen, Chair, Contra Costa County Board of Supervisors
Karen Stepper, Mayor, Town of Danville
Bill Clarkson, Mayor, Town of San Ramon
Doug Siden, President, East Bay Regional Park District
Scott Hein, President, Save Mt. Diablo
William Barns, Chair, Greenbelt Alliance
Tassajara Valley Resident's Committee

I'm writing to express my concerns regarding the Memorandum of Understanding (MOU) in relation to the Tassajara Parks housing development.

The MOU claims to be a "Preservation Agreement", but in reality it is an Agreement designed to promote and enable Non-Urban Development.

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CONT

The MOU has serious and irreversible negative implications to existing Tassajara Valley residents, agriculture production, the environment and surrounding communities.

There are 3 main concerning stipulations in this MOU.

- Developing Ground Water Extraction and Management for Non-Urban Uses.
- Prohibiting Future Annexation to the Existing Rural Community in Tassajara Valley.
- Ambiguity in showing how this MOU will strengthen the Existing Voter Approved Preservation Measures.

Tassajara Valley is a very special place nestled in the Eastern Bay Area, it consists of beautiful vistas, wildlife habitats, important open space, agriculture land and a rural community of approximately 125 homes. Because, of its proximity to highly desirable suburban communities, on an international level, this area is under great pressure for urban development. Although, there is persistent pressure from some land owners to develop this special place, there is also great pressure from the general population in Tassajara Valley and the surrounding communities to preserve the Tassajara Valley. Public opinion can be understood clearly by the strong support to keep Tassajara Valley outside the Urban Limit Line when Measure J was approved by voters in 2006.

The MOU claims to be a preservation agreement in order to satisfy the requirements of section 82-1.018 (a)(3) of the County Ordinance Code on one hand, and on the other hand it is promoting the development of Tassajara Valley's agricultural production and other non-urban land uses. In reality this is a non-urban development agreement to be adopted only after urban development efforts have been exhausted and pushing through a final urban development on voter approved land outside the Urban Limit Line. The timing of this MOU is critical as well, because the Plan Bay Area 2040 will likely add urban development complications if policies are adopted which further limit urban development outside the current ULLs and UGBs.

Developing Ground Water Extraction and Management for Non-Urban Uses.

1) Section #12 (d) – This is especially worrisome. This stipulation states that all parties to this MOU will agree to implement policies, support, and take other actions to develop a ground water extraction and management system to provide water for the development of non-urban land uses in Tassajara Valley. Tassajara Valley has a delicate and intricate ground water system that supplies water to existing rural residences, agriculture needs, Tassajara Creek, heritage oaks, meadows, wetlands, wildlife etc. We live in a time in which we know that everything is connected. One cannot expect to extract more water from Tassajara Valley's ground water system and not see negative consequences throughout the Valley. This particular stipulation needs to be very carefully researched and studied by a team of hydrologists, watershed conservation organizations and water rights attorneys.

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CONT

Prohibiting Future Annexation to the Existing Rural Community in Tassajara Valley.

3) Section P, Q, #5, #6, #7 - It is very important to understand the consequences of this MOU as it relates to the existing rural residential home owners within the Tassajara Valley Agricultural Enhancement Area. Tassajara Valley residential homes (rural) are outside the current service areas/SOIs for all special districts providing water and sewer service. Tassajara Valley residents will not be able to receive water from any municipality without first being annexed. Please clarify if the existing rural residential development is included in other non-urban uses and describe what non-urban uses include.

Ambiguity in showing how this MOU will strengthen the Existing Voter Approved Preservation Measures.

2) Section O and #2- The most important promise of this MOU is the claim that it will contractually preserve up to 17,718 acres in the Tassajara Valley. The process to do this is outlined in Section O and

#2 of the MOU. Surprisingly, the process is simply to uphold and reaffirm the existing voter approved land preservation policies.

How, exactly, will the MOU obtain a greater protection for Tassajara Valley than it already has? What is meant by up to 17,718 acres? Will all or part of the Agricultural Enhancement Funds be used to purchase land or developmental rights from land owners? Have the parties of this MOU been made aware of the specifications of this statement or agreements from land owners?

Other concerning stipulations

1) Section N - EBRPD's has a wide range of public recreation facilities. Since, many park uses can be detrimental to endangered species and wildlife habitat, such as golf courses and off-road vehicle parks, it is important to provide a clear description of the acceptable public recreation facilities and activities allowed in Tassajara Valley.

4) Section #12 (c) - Public land used for grazing ought to be carefully monitored. Grazing can be detrimental to critical habitats for Tassajara Valley wildlife, can substantially degrade the aesthetics of scenic meadows and inhibit wetland preservation.

6) 12 (e, f) – MOU should promote organic farming methods. The local communities do not want more pesticides and herbicides in proximity to our communities. Pesticides and herbicides have the high potential to contaminate ground water, wildlife habitat, and agriculture goods.

7) 12 (g) – What is a density transfer program?

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Since this MOU significantly impacts Tassajara Valley residents and the surrounding communities, our involvement and opinions ought to be an integral part of the decision making process. All Tassajara Valley residents and surrounding communities need to be sufficiently notified of all public meetings and public correspondence related to this and the Tassajara Parks development. Transparency into public policy decisions is of the utmost importance.

Alternative to the MOU

Similar to Measure C-1988 tax revenue which funds needed transportation improvements and Measure D – 2012 which helps fund SRVUSD education programs; Contra Costa County and Alameda County needs a Measure TV – 2017 to create funds to purchase developmental rights on agriculture lands, from willing sellers, promote production of local organic agriculture goods, provide funds to purchase conservation easements, lands for open space, parks, wetland, wildlife habitat, carbon sinks, watersheds, develop conservation and restoration education programs and facilities, and to preserve and restore our environment for our communities.

Tassajara Valley is home to the beloved Old School House, which provides a very special learning experience to all SRVUSD students. Developing restoration and conservation education programs in the Tassajara Valley is a wonderful way to provide additional exceptional learning opportunities for all Contra Costa County and Alameda County Students. There is an abundance of opportunities to create outdoor learning opportunities within the Tassajara Valley.

By creating a fund using tax revenue, the agencies are free to represent their constituents without the constraints of this MOU and needlessly overdeveloping Tassajara Valley with urban and non-urban development. By understanding the viewpoints of your constituents I believe you will find that the great majority value open space and are not supportive of continual urban sprawl in and around their communities. This type of a Measure is needed and warranted. It is an important opportunity for the Contra Costa County Board of Supervisors, Town of Danville, City of San Ramon, East Bay Regional Park District, Save Mt. Diablo and Greenbelt Alliance to work together to promote a Measure that will truly preserve the Tassajara Valley in perpetuity. As you are making decision that affect the lives of millions of people, keep in mind that we are living in a time when conservation action is greatly needed, not merely wanted.

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Very sincerely,

Gretchen Logue

There is much to gain, by many, through protecting the Tassajara Valley, and only a little to gain, by a few, if development is allowed.

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Gretchen Logue (LOGUE)

Response to LOGUE-1

The comment is noted. The commenter does not agree with the conclusions of the aesthetics analysis of the DEIR. As discussed in Section 3.1, Aesthetics, Light, and Glare, on page 3.1-25, the lighting associated with residential uses on the Northern Site would be consistent with lighting in adjoining residential areas, and would not adversely affect nocturnal wildlife. Project lighting would be required to comply with County Ordinance restricting "light trespass" onto adjacent lands. Although the proposed development would result in additional nighttime lighting, it would not be substantial enough to result in a significant impact to wildlife or nighttime views.

Response to LOGUE-2

The farmland classification for the Project Site is discussed in Section 3.2, Agricultural Resources, on page 3.2-3, and soils characteristics are discussed on pages 3.2-4 through 3.2-5. No prime farmland is located within the Project Site. CEQA does not recognize the conversion of Farmland of Local Importance as a significant impact, which the EIR correctly concludes. Please also refer to Section 2, Project Description, subsection 2.2.5 for a discussion of the ULL.

Response to LOGUE-3

Permanently preserving 727 acres as described in the RDEIR project description provides a sizable area for maintaining existing sequestration levels and for potential sequestration enhancement projects. The Project would be including landscaping with trees that would sequester carbon. The Project requires the removal of approximately 19 trees. The Project is required to plant approximately 369 new trees as reflected in the Preliminary Landscape Plan. This planting program is expected to more than make up for sequestration loses from tree removal. In addition, any impacts to wetlands are required to be mitigated at a ratio of 2 to 1. A detailed technical analysis of impacts to sequestration has not been accomplished, however, the Project design features and mitigation measures to reduce biological impacts are expected to provide sufficient new sequestration to equal or exceed existing sequestration levels. Therefore, a detailed analysis of the sequestration was deemed unnecessary to safely conclude the impact would be less than significant.

Response to LOGUE-4

Project trip generation was developed using Town of Danville rates, which is considered conservative because these rates are higher than standard ITE rates. The rates used in this study are therefore representative of local trip generation characteristics. The related analysis of GHG emissions is therefore based on an accurate and conservative representation of Project trips.

Response to LOGUE-5

The Biologists involved in preparing the biological analyses set forth in the RDEIR have decades of experience evaluating, mapping and have created many acres of vernal pools, seasonal wetlands, and riverine/stream environments that have all be deemed successful mitigation wetlands. As documented in the relevant sections of the RDEIR and these Responses to Comments, the creation of mitigation wetlands on the Southern Site would reduce any impacts to wetlands and waters of the U.S. to a level considered less than significant pursuant to CEQA, thereby offsetting indirect effects related to the Project's carbon footprint.

Response to LOGUE-6
Impact BIO-1 states: "The Project may have an adverse effect on special-status plant and wildlife species. The Project Site contains suitable habitat for three special-status plant species, eight special-status wildlife species, and nesting raptors and other migratory birds protected by the Migratory Bird Treaty Act." Implementation of Mitigation Measure BIO-1—Nesting Raptors would reduce this impact to a less than significant level pursuant to CEQA. The RDEIR evaluates Project-related impacts to endangered species and their habitats. CEQA requires that the Project impacts be evaluated based on existing conditions. Regardless, for purposes of a conservative analysis, the RDEIR assumes that all areas where ground disturbance would occur are endangered species habitat, and it mitigates for this impact at a 3:1 mitigation ratio for various species. This preservation, while not necessary to mitigate any significant impacts to raptor species, would also ensure there exists adequate hunting ground for raptor species. Finally, the commenter's suggestion that the Project Site be allowed to return to an ungrazed condition and then studied is acknowledged, but is not legally required. The proper CEQA baseline is the existing conditions, and the biological studies that support the RDEIR were prepared by expert Biologists applying appropriate methodologies.

Response to LOGUE-7
The RWQCB requires complete pre- and post-development BMP plans of any portion of the Project Site that is developed. This means that a water quality treatment plan for the pre- and post-developed Project Site must be prepared and implemented. Preconstruction requirements must be consistent with the requirements of the NPDES. That is, a SWPPP must be developed prior to the time that a site is graded. The SWPPP is a document that describes how a project will prevent pollution during the construction process. The SWPPP details how erosion would be prevented and how sediment would be controlled, as well as how other construction-related pollutants (i.e., construction dust and fluids from construction equipment) would be prevented. In addition, a post construction BMP plan, or a SWMP would be implemented to address stormwater capture and treatment prior to the time it leaves the Northern Site. The foregoing measures ensure that water quality standards set by federal and state authorities are respected. These considerations and other aspects of the Project's hydrology were appropriately accounted for in preparing the RDEIR and its analysis of impacts on biological resources, which were prepared by expert Biologists and Hydrologists. Therefore, no further study is necessary.

Response to LOGUE-8
Throughout the RDEIR in relevant sections (Land Use, Aesthetic Resources, Agricultural Resources, Biological Resources, etc.), the RDEIR confirms that with respect to the Dedication Area that would be permanently preserved, it would be used for agriculture, park and recreational uses, wetland preservation and creation, habitat mitigation, scenic and other non-urban uses in accordance with the relevant ULL provisions. There is no proposal to construct a golf course or active community park uses, and this land would be transferred to East Bay Regional Parks District in fee to ensure that only the foregoing contemplated uses are allowed. Furthermore, a significant portion of the Project Site would also be subject to a conservation easement for the benefit of the resource agencies, which would further ensure that the scope of uses would be consistent with those described. Please also note that the proposed P-1 zoning would be consistent with the EBRPD Master Plan. Please refer to the discussion of zoning in Section 3.9, Land Use, Population and Housing, on page 3.9-17 of the RDEIR.

Response to LOGUE-9
Groundwater impacts are discussed in Impact HYD-2, RDEIR Section 3.8, Hydrology and Water Quality, p. 3.8-9, and stormwater management and discharge control are discussed in Impact HYD-1, page 3.8-7. Hydrologic Supporting information and studies are included in Appendix G of the RDEIR. The appendix includes an analysis of the retention basin. The analysis confirms that the Project would not result in a negative impact on groundwater recharge or potability of existing wells in the area. Please also refer to response to Logue-7.

Response to LOGUE-10
The comment is noted. Please refer to Master Responses 2: Agricultural Preservation Agreement. See also RDEIR Section 3.2, Agricultural Resources, at pp. 3.2-12–3.2-15 (discussion of potential impacts on agricultural resource), and RDEIR Section 3.4, Biological Resources, at pp. 3.4-57-3.4-77 (discussion of potential impacts on biological resources).

Response to LOGUE-11
As noted in Section 3.12, Transportation and Traffic, Table 3.12-6, Tassajara Parks Trip Generation, Note[1], for single-family residential uses, "Trip generation rates developed by the Town of Danville were used in this study. The Town of Danville's rates are higher than ITE rates and thus more conservative."

The traffic impact analysis considered the Project's potential impacts in AM and PM peak-hours, also consistent with the relevant agencies' requirements and protocol and industry standards. The comment's assertions regarding an alternative methodology would be inconsistent with the relevant agencies' requirements and protocols and industry standards. Therefore, the RDEIR fully evaluates the Project's potential traffic impacts and no additional analysis is warranted.

AM and PM peak-hour trips were used to determine transportation related impacts and mitigations. Regardless, the daily trip rate assumed for each single-family residential household is 12.17, which is based on survey data and includes trips to/from work, school(s), shopping, leisure, deliveries, etc. This means that for each household, there would be (on average) slightly more than 6 arrivals and 6 departures (or 6 round trips) per household, per weekday. While this comment could be true for some busy households, Town of Danville data shows that for the average home on the average weekday, daily trips are 12.17. Peak traffic occurs in the study area during weekday AM and PM periods. Therefore, the TIA analyzed reasonable worst-case conditions and weekend traffic operations can be assumed to be better than what was analyzed.

Response to LOGUE-12
The 2035 CCTA travel demand forecast model was used to estimate cumulative traffic, which is consistent with the relevant agencies' requirements and protocols and also consistent with industry standards. Reasonably foreseeable future developments, including (among others) the specified housing developments mentioned by the commenter, are included in the CCTA model and therefore are analyzed in the TIA. Additionally, intersection, roadway, and freeway improvements anticipated to be implemented by the year 2035 were included in the analysis to ensure a consistent and comprehensive evaluation.

As explained more fully in the RDEIR, the Project's cumulative traffic impacts would result in potentially significant effects at five intersections and several freeway segments. Mitigation would return all five intersections to acceptable operation, but the freeway segment operation would remain significant and unavoidable. The RDEIR therefore appropriately evaluates the effects of the Project in combination with other reasonably foreseeable cumulative development.

Response to LOGUE-13
Please see Master Response 3: Transportation Analysis for a discussion of how study intersections were identified. The intersections listed in the commenter's letter did not meet the 50 peak-hour trip threshold to be included in the transportation analysis.

Regarding the need for signal lights and reduced speed limits, RDEIR Section 3.12, Transportation and Traffic, evaluates the implementation of the Project and its effect upon traffic levels. The RDEIR includes mitigation where needed to address potentially significant impacts.

The speed limit for Camino Tassajara and other roadways are determined by applicable law, over which the Project applicant has no control. The RDEIR (at pp. 3.12-63 and 3.12-64) evaluated this intersection and determined that the Project's impact would not result in the need for a signal pursuant to CAMUTCD signal warrant guidelines. These issues are also covered in Master Response 3: Transportation Analysis.

Response to LOGUE-14
As required under CEQA, the RDEIR and related traffic impact analysis evaluated the Project's impacts on transit, pedestrian and bicycle facilities (see Impact Discussion 3.12-34 through 3.12-82). In addition, the RDEIR evaluated whether the Project, because of a design feature, would result in a significant safety impact. As explained more fully therein, the Project would have less than significant impacts for both of these items. CEQA does not require a separate analysis regarding "impacts to bicyclists" and bicycle safety per se, and, therefore, no further response is required. For informational purposes, see Response to Comment SOS-D-2 (regarding bike safety impacts).

The RDEIR, at Impact TRANS-6 (RDEIR page 3.12-82-85) evaluated the Project's impacts on the previously proposed Finley Road equestrian staging area, including with respect to sight distance for the proposed Project driveway on Finley Road. The RDEIR includes mitigation (TRANS-6a and 6b) to enhance safety for motorists, pedestrians, bicyclists, and equestrians. CEQA does not require a separate analysis regarding "impacts to bicyclists" and bicycle safety per se, and, therefore, no further response is required. For informational purposes, see Master Response 3: Transportation Analysis. As indicated above, the equestrian staging area is no longer a Project component. Accordingly, the identified potential impact at the intersection of Finley Road / Camino Tassajara related to visitor use of the equestrian staging area would not occur. As such, the implementation of Mitigation Measure TRANS-3e, which requires the construction of a southbound right-turn pocket is no longer required and therefore has been removed.

Response to LOGUE-15
Impacts to the Old School House as a result of the use of the previously proposed equestrian staging area is speculative and does not provide a basis for requiring the applicant to fund ongoing

maintenance of the building. In addition, as indicated above, the equestrian staging area is no longer a Project component.

Response to LOGUE-16
Traffic impacts from the Project, including those relating to the previously proposed Finley Equestrian Staging Area, are discussed in Section 3.12, Traffic and Transportation (e.g., at pp. 3.12-82, Impact TRANS-6). See also the discussion regarding potential transportation impacts under Impact TRANS-6 on page 3.12-82, which included mitigation measures to enhance visibility and safety at the staging area. As indicated above, the equestrian staging area is no longer a Project component, and thus the foregoing mitigation is no longer required.

For a general discussion of the Project's potential impacts on law enforcement, see RDEIR Section 3.11, Public Services and Recreation, page 3.11-13 under Impact PSR-2.

Response to LOGUE-17
As discussed in the RDEIR, including Section 3.4, Biological Resources, pages 3.4-77 and-78, the culvert crossing in Tassajara Creek would remain and would continue to provide a wildlife movement corridor. No additional culverts to provide wildlife passage are warranted here because the Project would not significantly impair any migration corridors leading to Camino Tassajara. Regardless, there is a school and soccer fields immediately across the street from the proposed development, and wildlife species are most unlikely to be crossing Camino Tassajara to get to this area from the Project Site.

Response to LOGUE-18
See Response to Comment LOGUE-16, above. Speed limits are set by the relevant public agency in accordance with applicable laws, over which the Project applicant has no control.

Response to LOGUE-19
See RDEIR, at pp. 3.12-74 for a discussion of the Project's potential traffic impacts, including those near the Tassajara Hills Elementary School driveway, which confirmed that the LOS in the driveway study location would not degrade below acceptable LOS E during the AM or PM peak-hours. This evaluation was conducted pursuant to relevant agency requirements and protocols and industry standards. School peaks typically occur for 15 to 20 minutes, whereas the typical street peaks occur over a period of 1 hour or more. Also note that the Project includes circulation improvements to the school's parking area that the Project applicant is voluntarily agreeing to do, with said improvements being identified by the Project's traffic consultant in consultation with the School District. The congestion at the school is an existing condition, caused by the school traffic and the relatively low use of other modes of transportation (i.e., taking the bus, walking or biking) for arrival/departure at the school. The Project proposes to improve existing site parking and circulation deficiencies, by providing an additional westbound right turn lane on Camino Tassajara, and improving access for pedestrians from the Project Site to the school. These measures would improve traffic operations at the school and potentially shorten the time period of congestion at the school driveway and have been incorporated as project design features. Regarding the voluntary parking lot and circulation improvements to Tassajara Hills Elementary School, there has been appropriate coordination among the County, the Project's traffic consultant, and the School District.

See Response to SOS-D-2, which addresses the potential safety considerations. Please also see Master Response 3: Transportation Analysis.

Response to LOGUE-20
The Project no longer proposes to utilize water from CPUD. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to LOGUE-21
The comment is noted. With regard to EBMUD comments, please refer to Master Response 1: Water Supply and Distribution.

Response to LOGUE-22
Impacts associated with groundwater are outlined in Impact HYD-2 in RDEIR Section 3.8, Hydrology and Water Quality, on page 3.8-9. No new on-site groundwater wells would be drilled as part of the Project. As explained in more detail in the WSE, it is anticipated that the Project would generate demand up to approximately 48 acre-feet of potable water annually; refer to Section 3.11, Public Services and Recreation, for further discussion. The proposed source of water originates primarily from surface water, and, therefore, the Project would not deplete groundwater supplies. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to LOGUE-23
Please refer to Master Response 2: Agricultural Preservation Agreement.

John Oborne

From: Terry Magovern <tmagovern@rocketsoftware.com>
Sent: Monday, November 28, 2016 12:52 PM
To: John Oborne
Subject: Tassajara Parks Development

Hi John Oborne,

I urge you to help stop more development in our area.
We have lived at Blackhawk for over 20 years and have seen the roads get more and more crowded.
It used to be just at commute time – now it is often any time. It is getting more and more like L.A. here – which is awful!
And of course, we are short on water – how can new development be allowed when water is so precious here?? 1
We may have to move out of here , as the whole atmosphere is no longer the peaceful surroundings we have enjoyed.
Please save the old Danville and our roads before it is too late!

Terry Magovern

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Terry Magovern (MAGOVERN)

Response to MAGOVERN-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Nahlik <annanahlik@cs.com>
Sent: Wednesday, November 30, 2016 4:27 PM
To: John Oborne; John Kopchik; Mary Piepho; Supervisor Candace Andersen; dburgis@ebparks.org; District5; John Gioia; SupervisorMitchoff; bclarkson@sanramon.ca.gov; sperkins@sanramon.ca.gov; dhudson@sanramon.ca.gov; poloane@sanramon.ca.gov; hsachs@sanramon.ca.gov; arnerich@danville.ca.gov; mdoyle@danville.ca.gov; rmorgan@danville.ca.gov; storer@danville.ca.gov; kstepper@danville.ca.gov; lblackwell@danville.ca.gov
Subject: Tassajara Parks Project/ Memorandum of Understanding "MOU" Opposition

Please find this email communication as a notice to express my opposition to approval of proposed Memorandum of Understanding "MOU" that County and other agencies consider adopting.

The following are some important reasons why MOU should not be approved.

1. "Tassajara Valley Agricultural Enhancement" (+-)17000 acres has much more sever agricultural limitations and is less favorable farmland than the land that is being proposed for development project Tassajara Parks Project, Southern Site and Northern Site. Please see detailed soil maps that are available on Soil Web Survey and compare soil classification on all lands at issue:
http://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx or UC Davis
https://casoilresource.lawr.ucdavis.edu/gmap/.

2. You will find out that Southern Site and Northern Site both have Prime Agricultural Land (if irrigated) such as Cc—Clear Lake clay that is prime agricultural land (if irrigated), or DdD—Diablo clay, land of the local importance.

1

3. You will also find out that proposed Tassajara Valley Agricultural Enhancement acreage has very small portions compare to size +- 17000 of acreage proposed of suitable for competitive farming, Prime Auricular land. Therefore this entire land Tassajara Valley Agricultural Enhancement acreage has severe agricultural limitation and requires much of innovation and agricultural mitigations and changes in operations since economies of scale type of agricultural operations is needed for instance for grazing. Land has also limitation for dry farming for instance natural topography limitation, and very limited water.

4. In order for the proposed Tassajara Valley Agricultural Enhancement area to try to be productive competitive agricultural economy, it would require downsizing of agricultural parcels to smaller parcels to overcome water limitation since no water from any irrigation district is available for irrigation on the large scale big parcels. The only water available for this area is from underground aquifer that is very limited in supply, so the only small acreage can be irrigated from small domestic wells for growing crops for instance small vineyards or small productive orchards. It is hard to justify how this proposed area "Tassajara Valley Agricultural

Enhancement" in its current state with such limitations; natural topography, limited water supply was chosen for permanent agricultural preservation with no proposed common sense agricultural improvements/changes.

5. MOU does not address any solutions to improve water supply for agriculture land.

6. MOU does not address any solutions to crate suitable to this specific agricultural conditions "economy of scale" that makes agricultural economic sense.

7. MOU will further put all property owners cover by MOU into economic disadvantage by precluding agricultural economic advances, precluding bringing water infrastructure to allow farmers to be competitive in their productions. One example can be for instance in grazing with grazing on irrigated pastures versus grazing on non-irrigated pastures.

8. MOU does not support its position from the aspect of agriculture potentials or disadvantages for the area by performing a comprehensive assessment of the agricultural potential of the area +- 17000 acreage that is being proposed for permanent agricultural preservation. How "someone" can make a decision without of researching agricultural potentials or agricultural disadvantages of the area that is being proposed for permanent agricultural preservation. More study needs to be done to justify the need for MOU and how MOU will benefit agriculture.

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CONT

Thanks,
Anna Nahlik
CCC Resident

Anna Nahlik (NAHLIK)

Response to NAHLIK-1

The farmland classification for the Project Site is discussed in Section 3.2, Agricultural Resources, on page 3.2-3, and soils characteristics are discussed on pages 3.2-4 through 3.2-5. No prime farmland is located within the Project Site. The comment regarding the agricultural preservation agreement (formerly referred to as the MOU) addresses the merits of the Project and the Agricultural Preservation Agreement and does not raise any issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 2: Agricultural Preservation Agreement. No further response is required.

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November 30, 2016

Mr. John Oborne
Contra Costa County Department of Conservation and Development
30 Muir Road, Martinez, CA 94553
John.Oborne@dcd.cccounty.us

Re: Comments on the Recirculated Draft Environmental Impact Report for the Tassajara Parks project (GP07-0009, RZ09-3212, SD10-9280, DP10-3008)

Dear Mr. Oborne,

Following are our comments on the above R-DEIR. These comments are in addition to those we submitted earlier for the DEIR, and they supplement our verbal comments made at the County Zoning Administrator's hearing on November 7, 2016.

First, the R-DEIR proposes the elimination of a significant part of the usual public hearing process, which is inappropriate for a project as major and as controversial as this one. In the Executive Summary (pages 6-7), the R-DEIR states, "Upon completion of the public review period, written responses to all significant environmental issues raised will be prepared and made available for review by the commenting agencies at least 10 days prior to the public hearing before the Board of Supervisors on the Project, at which the certification of the Final EIR will be considered. Comments received and the responses to comments will be included as part of the record for consideration by decision makers for the Project." 1

This truncated process, however, would eliminate several key public hearings. The first of these would be the public meeting in which the Zoning Administrator considers the certification of the Final EIR. In addition, the public hearing (or hearings) before the Planning Commission at which the staff report recommendations are presented would be dropped. This shortened process would mean that the public would not be able to learn the recommendations of the Planning Commission before the project appeared before the Board of Supervisors, nor would the public have adequate time to consider and discuss these recommendations. The R-DEIR should not attempt to circumvent the planning process.

Second, the R-DEIR traffic study states that more than 20% of the generated trips would go south along Camino Tassajara, but it includes no specific data or analysis for any intersections south of Finley Road (Exhibit 3.12-4), in particular the Highland Road intersection. This intersection is very busy during commute hours as Highland connects with Vasco Road and so is used by commuters to avoid the delays of the I580-I680 interchange. Trip and LOS estimates for any road or intersection usage on Tassajara south of Highland Road cannot be accurate without considering the Highland data. Without this data, the LOS estimates for the I580 segments between the Fallon and Dougherty interchanges (namely the I580 segments Fallon-Tassajara, 2

Tassajara-Hacienda, and Hacienda-Dougherty) are also questionable. Without the Highland Road data, the R-DEIR does not sufficiently address project traffic impacts. 2 CONT

Third, the R-DEIR includes a proposed Memorandum of Understanding for a new entity, the "Tassajara Valley Agricultural Enhancement Area." This MOU has a number of serious problems. Since this MOU is a key element of the R-DEIR, these issues should be addressed in the R-DEIR for it to be considered adequate. 3

1- The R-DEIR should include a provision that all landowners in the 17,718 acre "Tassajara Valley Agricultural Enhancement Area" should be notified of the MOU, as well as all landowners outside this Area but within 300 feet of it. This notification would be in line with the County's usual process, in which all landowners within 300 feet of a proposed change are notified. 4

2- The R-DEIR should include a provision that if the Tassajara Parks project is not approved, then the MOU would be invalid. 5

3- The 500 acres of mitigation specified in the MOU should be within the Tassajara Valley Agricultural Enhancement Area.

4- The border of the "Tassajara Valley Agricultural Enhancement Area" should be redrawn as necessary after changes to the County ULL, the San Ramon UGB or the Danville UGB to ensure that the Area only includes regions outside the ULL/UGBs.

5- The MOU should qualify the meaning of the repeatedly used term "non-urban uses," found in the phrase "serves non-urban uses such as agriculture, open space, wetlands, parks, and other non-urban uses." For example, what sort of "parks" would be allowed? What other "non-urban" uses would be allowed? 6

6- Some limitation in size, scale, and intensity of development should be specified in the MOU in order to keep whatever activity is contemplated consistent with existing activities in the "Tassajara Valley Agricultural Enhancement Area."

   As it is currently written, this MOU could in fact encourage further large-scale projects, since it lays out a path to approval and sets a precedent by applying it to the Tassajara Parks project, which is urban in its scale and intensity of development.

   Such a limitation could be defined by assessing and then limiting such things as the equivalent power usage or generation, water usage, and number of employees required for ongoing operations. If the proposal would be consistent with current similar operations in the "Tassajara Valley Agricultural Enhancement Area," then it could be considered for approval.

7- The MOU should include a representative for the people who are most affected by its implementation – namely the landowners in the "Tassajara Valley Agricultural Enhancement Area."

In the MOU, approval or disapproval of a proposed project is given to four signatories: Contra Costa County, the town of Danville, the city of San Ramon, and the East Bay Regional Parks District. Although Contra Costa County includes the landowners in the "Tassajara Valley Agricultural Enhancement Area," the County also includes the town of Danville and the city of San Ramon, so the needs and desires of the unincorporated landowners could easily be overruled by the needs and desires of these much larger cities.

For example, if a developer or a land owner proposes to build a stadium in this area, it could be considered to be a "non-urban use" because it involves sports. It might be highly desired by the particular city nearby, it would be a revenue producer, and it would bring economic benefit to the city it borders. At the same time, its presence would be totally out of character with the rest of the Tassajara Valley. The local residents would be the best equipped to decide what is in keeping with the character of the Tassajara Valley, and in fact would be the most likely to require a consistency of land use to the area. 7

The same problem arises with the "agricultural enhancement fund." This money would have a much higher probability of being spent in a meaningful way if the landowners in the "Tassajara Valley Agricultural Enhancement Area" were given a voice of their own.

For these reasons, the landowners in the "Tassajara Valley Agricultural Enhancement Area" should be included as a separate signatory to this MOU along with the county, Danville, San Ramon, and EBRPD. All five would follow and interpret the MOU as they saw fit, and would be bound by a majority vote. If a single landowner or a group of landowners were to propose a development, they would be recused from any discussions with the representative.

Since there are so many issues with the MOU, we suggest that the developer seek a different way to justify this development outside of the Urban Limit Line.

Thank you for letting us submit our comments on the R-DEIR.

Regards,

Bill and Holly Newman
PO Box 2330, San Ramon, CA 94583
Email: wcn440@gmail.com

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Bill and Holly Newman (NEWMAN)

Response to NEWMAN-1
The referenced text by the commenter is stipulated in CEQA Guidelines Section 15088(b). All public comments received during the RDEIR public comment period have been evaluated and responded to in accordance with Section 15088. The referenced text speaks only to the process required under CEQA to complete the Final EIR. It does not address or in any way limit the County's public hearing process that will proceed to consider the EIR and the merits of the Project, which will adhere to applicable requirements under state law and the County Code. This process is determined by the County as an administrative matter, and is not within the purview of the RDEIR or CEQA. With respect to the Project, the process, for purposes of CEQA, will include a hearing for the Planning Commission's recommendation for certification of the EIR and a hearing for the Board's review and consideration of the EIR for certification. This will be a similar process with respect to the Agricultural Preservation Agreement, whereby the Board of Supervisors will consider the adequacy of the EIR. No further response is required.

Response to NEWMAN-2
The selection of study intersections was determined with input from the County, and the City of San Ramon and Town of Danville. (The City of Dublin was contacted but did not provide any input or comments.) The study was conducted in accordance with CCTA standard procedures. RDEIR Section 3.12, Transportation and Traffic, pages 3.12-9 and 3.12-10 discuss selection methodology and identify 50 peak-hour trips as the threshold for inclusion as a study intersection. The referenced Highland Road intersection would experience an estimated 41 AM peak-hour trips and 32 PM peak-hour trips, which does not meet this selection criteria and therefore was not further evaluated. The methodology is consistent with the relevant agencies' requirements and protocol and industry standards and therefore no additional analysis is warranted.

Response to NEWMAN-3
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to NEWMAN-4
The RDEIR and appendixes, including the draft Agricultural Preservation Agreement (formerly referred to as the MOU), were distributed to responsible and trustee agencies, other affected agencies, surrounding cities, and interested parties, as well as all parties requesting a copy of the RDEIR in accordance with Public Resources Code 21092(b)(3), and also made available for the public at the Contra Costa County Department of Conservation and Development, the Danville Library, the Office of District II Supervisor Candace Anderson, San Ramon Library, Contra Costa County Library Dougherty Station Branch, and Pleasant Hill Library Contra Costa County Main Branch. In addition, the documents here are made available for review via the County's website.

Response to NEWMAN-5
The comment is noted. The issue raised by the commenter addresses the merits of the Project and the Agricultural Preservation Agreement (Appendix L) and does not raise any issues with the environmental analysis provided in the RDEIR. No further response is required.

Response to NEWMAN-6
Please refer to Master Response 2: Agricultural Preservation Agreement, and Master Response 4: General Comments.

Response to NEWMAN-7
Please refer to Master Response 2: Agricultural Preservation Agreement and Master Response 4: General Comments.

John Oborne

From: Sam Pejham <spejham1@yahoo.com>
Sent: Tuesday, November 22, 2016 12:13 PM
To: John Oborne
Subject: Tassajara Parks Project

Hi John,
I'm writing this email regarding the Tassajara parks project. I have a few concerns that I would like to have addressed. We live in Blackhawk and my son attends Tassajara Hill elementary school which overlooks this land. I'm deeply concerned about the traffic flow that it will bring to Camino Tassajara. Already, we're facing a lot of traffic whether going east towards 580 or north towards 680. The proposed solution to this traffic congestion seems very inadequate. My second concern is the destruction of the beautiful rolling hills that we get to enjoy as our view during our commute everyday. 1

Last but certainly not least is my concern about our schools. I have not seen any plan to build another school to accommodate for so many new families projected to purchase these new houses as part of the proposed Tassajara Park project and in that part of Danville. Currently, the Tassajara Hill elementary school is more than full capacity for the current residents requiring a lottery system to accept long time resident let alone having extra space for new incoming families. 2

This land was always designated as nonresidential farm land for these exact reasons and unless these issues are addressed properly, no further development should occur on these farm lands.

I welcome your response.

Thank you,

Sam Pejham, MD
4645 Kingswood Drive
Danville, CA 94506

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Sam Pejham (PEJHAM)

Response to PEJHAM-1

Traffic operations at Camino Tassajara intersections and along I-580 and I-680 freeway segments were analyzed consistent with the relevant agencies' requirements, protocols, and industry standards. The traffic analysis identified all significant Project-related traffic impacts, and also identified feasible mitigation that would be imposed as enforceable conditions, as discussed in the TIA and Section 3.12 of the RDEIR. The Project applicant has voluntarily agreed to make improvements to enhance parking and circulation at Tassajara Hills Elementary School based on the Project's traffic consultant's recommendations and in consultation with the School District. Please also refer to the RDEIR, Section 3.1.6 for a discussion of the Project's potential aesthetic effects; as discussed, the section confirms that the development of the Project would not have a significant effect.

Response to PEJHAM-2

See Response LOGUE-19 regarding the RDEIR's evaluation of the Project's potential school facilities impacts and the required mitigation of payment of applicable SB 50 fees. See also Section 3.11, Public Services and Recreation, page 3.11-14 of the RDEIR, which confirms that Tassajara Hill Elementary School would continue to have adequate student capacity with the implementation of the Project. The County and applicant team participated in several communications with the school regarding the Project and the development and refinement of proposed improvements for access and circulation at the school facility. The vast majority of the Project Site (727 acres) would be conveyed in fee to the EBRPD and permanently preserved for agricultural, open space, park and recreational, wetland preservation and creation, habitat mitigation, and scenic uses. See RDEIR Section 3.2, Agricultural Resources, page 3.2-12, which discussed the Project's potential impacts on agricultural resources. For the analysis of the Project's impacts on traffic, see Section 3.12, Transportation and Traffic.

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John Oborne

From: Dave Rampa <drampa@baysidesolutions.com>
Sent: Thursday, November 10, 2016 4:33 PM
To: John Oborne
Subject: Tassajara Parks

Hello John,

I never heard back from anyone in your department about this.....

My name is David Rampa and my wife, 2 kids and I live in the Tassajara Valley at 5374 Old School rd. Pleasanton Ca 94588. I am writing to you in regards to the proposed Tassajara Parks Housing Development. I was able to read the EIR and I wanted to bring some areas of concern to you regarding the project. My area of concern is surrounding water. Water tables and people's well's will be effected by this project. I am not necessarily against development if it could bring benefit to my neighborhood (ie. water). Right now as the project stands there is no added benefit to my neighborhood by bringing more homes, more people, more traffic, more students to impacted schools, traffic, and disrupting our water supply. I am voting against this development unless we are able to bring water to our neighborhood. If the developer would be willing to look at bringing water into our neighborhood I am certain there are enough people in my neighborhood that would support the new development. Please let me know if you or the developer would like to discuss further. 1

Thank you,

David Rampa
415-290-6378

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Dave Rampa (RAMPA)

Response to RAMPA-1

Impacts associated with groundwater are outlined in Impact HYD-2 on page 3.8-9 of the RDEIR. No new on-site groundwater wells would be drilled as part of the Project. Assuming that an agreement is approved by the EBMUD Board of Directors, the Project would utilize municipal EBMUD water and would not deplete groundwater supplies. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

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John Oborne

From: Laura Rich <laura-dan@sbcglobal.net>
Sent: Wednesday, November 30, 2016 4:10 PM
To: John Oborne
Cc: John Kopchik; Mary Piepho; Supervisor Candace Andersen; dburgis@ebparks.org; District5; John Gioia; SupervisorMitchoff; bclarkson@sanramon.ca.gov; sperkins@sanramon.ca.gov; dhudson@sanramon.ca.gov; poloane@sanramon.ca.gov; hsachs@sanramon.ca.gov; arnerich@danville.ca.gov; mdoyle@danville.ca.gov; rmorgan@danville.ca.gov; storer@danville.ca.gov; kstepper@danville.ca.gov; lblackwell@danville.ca.gov
Subject: Tassajara Parks Draft EIR

ATTN:John Oborne –Senior Planner

RE:TassajaraParks Draft EIR

We are writing in regards to the Tassajara Parks Draft EIRand related MOU.This issue is deeply alarmingto all land owners affected.

As confirmed by Contra Costa County:

- The MOU was written by the Tassajara ParksDeveloper in order to gain approval to move the ULL without any public vote andwithout any of the impacted land owner's knowledge or more importantly, ourconsent.
- The MOU restricts extending any municipal waterthrough Tassajara for residential or land owner's benefit. 1
- This MOU will be voted onbeforetheTassajara Parks vote; and if approved, would remain in place regardless of theTassajara Parks vote.
- This MOU would be a permanent commitment withoutany expiration, unlike the ULL which expires in 2026.
- The MOU is described to be intended as an "AgriculturalEnhancement", preserving precious open land; but in reality it is aboutsecuring open land to further ulterior agendas for developers rather thanenhancing agriculture.This MOU suppliesthe legal means for future developers to move the ULL simply by contributingfunds – 4 million to be exact; side-stepping any public vote.
- Is there any consideration given to the factthat an additional 152 families will need water?In a drought environment?Is a water supply to be contracted by others,transferred, exchanged, and/or hauled to the site, as outlined in the DraftEIR?How ludicrous! 2
- This new developer would be building 152 homeswithin a flood zone, against county regulations.Does this not negatively impact wetlands,native species and plants? 3
- How can this MOU obligate and pledge 17,000acres ofprivately owned landwith absolutelyno legal consentfrom the land owners themselves?Many ofthese families, our neighbor's have owned land in the Tassajara Valley sincethe 1800's. 4

This is completely illegal and violates our legal rights asland owners.If there are any furtherviolations of our legal rights, we are prepared to file suit with all partiesinvolved.

Sincerely,
Dan&Laura Rich

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Dan and Laura Rich (RICH)

Response to RICH-1
The commenter does not raise issues related to the environmental analysis in the RDEIR.

Please refer to Master Response 4: General Comments. However, for informational purposes, the following information is provided:

The ULL was established in 1990 with voter approval of Measure C, and was originally set to expire in 2010. Public commitment to the ULL was reaffirmed through overwhelming voter support of Measures J-2004 and L-2006, the latter measure extending the term of the ULL through 2026. It is reasonable to expect that County voters will be given another opportunity to extend the term of the ULL sometime during the 2020–2026 voting cycles. While another extension certainly cannot be guaranteed, voters have thus far demonstrated a 36-year commitment to the ULL concept and there is no reason to expect public sentiment regarding the ULL to significantly change in the near future.

Please also see Master Response 2: Agricultural Preservation Agreement.

Please note that each agency signing the Agricultural Preservation Agreement is exercising its authority under the police power and/or other applicable laws and regulations to re-affirm its existing policies and goals with respect to agricultural preservation and open space. The Agricultural Preservation Agreement reiterates each agency's interpretation of existing policies as they relate to the extension of municipal services.

Response to RICH-2
The comment is noted. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to RICH-3
Impacts associated with wetlands, native species and plants are discussed in Section 3.4, Biological Resources, of the RDEIR. All such impacts would be reduced to less than significant with mitigation. Furthermore, the 30-acre Residential Development Area where the proposed residences would be constructed is not within a Federal Emergency Management Agency (FEMA) flood zone.

Response to RICH-4
Please refer to Master Response 2: Agricultural Preservation Agreement.

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John Oborne

From: Peter Robinson <peterkody@gmail.com>
Sent: Monday, November 28, 2016 2:57 PM
To: John Oborne
Subject: Tassajara Parks project for 125 homes

Dear John,

I write to you as a very concerned property homeowner living in Silver Maple, regarding the proposed Tassajara Parks project for 125 homes.

I have lived in this home for 20 years now, and have seen the beautiful landscape diminished year after year. All to a point now where there are few of our beautiful hills remaining in the area. I strongly disagree with this project, as we have to demand maintaining the remaining few open natural landscapes we have, for our children and grandchildren. Besides, aren't we supposed to have a water shortage!? 1

What more can I do you convince you?

Thanks,

Peter Robinson

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Peter Robinson (ROBINSON)

Response to ROBINSON-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Tim Ryan <timryan8@gmail.com>
Sent: Monday, November 28, 2016 8:03 AM
To: John Oborne
Subject: Tassajara Housing project

Mr Oborne,

I recently read the draft EIR for the proposed Tassajara Parks Project.

I am a resident of Blackhawk, near the east gate of Blackhawk on Tassajara Road. Based on what I can understand from the draft EIR, this does not look like a project that should be approved without a lot of light cast on it for the public to fully understand and comment on what is going on. For example: 1

What will be the impact on traffic on Tassajara Road?

Why must the construction period be 3 years? If we are really going to do this...lets get it done quickly. I saw something the in the EIR that talked about some rule that requires this extended construction period....If we are looking to change the zoning of this property...lets get an exception to the rule as well. 2

What will be the impact on the local schools? 3

Where will the water come from? Is the drought over? Do we really have enough? Relying on availability of recycled water is not a reliable plan. I have been actively involved for almost 10 years in trying to get EBMUD and DERWA to bring recycled water to Blackhawk...and I can assure that all we get is empty promises. Even if the purple pipe is finally built...it obviously will not provide all the water needed. We should not be creating more demand for potable water which adds to the existing water shortage. EBMUD will end up having to buy more water at a higher cost (like the recent 25% surcharge) that all of us existing EBMUD customers will have to pay. Why is that fair??? 4

My takeaway is that the plan promises to provide assurances that some of the land will never be developed, and some trial heads will be improved in exchange for a developer to remove native trees, grade our beautiful hills, and add to our congestion and water shortage. It seems to me that this land is already zoned to not be developed for housing...so a promise not to develop some of it further is not really adding anything. I use the existing trailheads at the end of Finley Road....and they are perfectly satisfactory.

Someone (the developer, whoever this is??) will make a lot of money from this project. But I can not understand why there is anything at all in it for the citizens of Contra Costa County. Can you provide anything at all that is positive for the current citizens? 5

If I have misunderstood anything, I would appreciate any corrections you would like to make. I would also request to be made personally informed of any public hearing or other opportunities to become better informed on this project.

Thanks,

Timothy C. Ryan
3615 Country Club Terrace

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Timothy Ryan (RYAN)

Response to RYAN-1
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

To the extent the comment raises questions about potential traffic impacts on Tassajara Road, the area south of the Project was considered during the study area selection process. Based on the trip generation and distribution (CCTA TDM), it was determined that few Project trips would travel on Tassajara Road (below maintaining agency guideline thresholds). The TIA analyzes traffic along Camino Tassajara Road and on Crow Canyon Road. Where significant Project impacts were identified, feasible mitigation measures were also provided that would reduce the impact to less than significant.

Response to RYAN-2
The comment is noted. The issue raised by the commenter addresses the merits of the Project and does not raise any issues with the environmental analysis provided in the RDEIR, and therefore no further response is required.

Response to RYAN-3
Impacts from the Project on schools are discussed under Impact PSR-3, RDEIR Section 3.11, Public Services and Recreation, on page 3.11-14. Moreover, consistent with SB 50, the ability to require mitigation of school facility impacts as a condition of approval is limited to the collection of statutory developer fees. The collection of statutory fees is the exclusive means of considering and mitigating potential impacts on school facilities that occur or might occur as a result of the approval of development of real property.

Response to RYAN-4
The comment is noted. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to RYAN-5
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. Furthermore, the commenter has been added to the mailing list. No further response is required.

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John Oborne

From: Jen Sabo <jenlsabo@gmail.com>
Sent: Wednesday, November 30, 2016 2:06 PM
To: John Oborne
Subject: Objection to the Tassajara Parks Project

Dear Mr. Oborne,
I've been hearing about the housing development planned along Camino Tassajara next to Tassajara Hills Elementary School, and I wanted to voice my objection to the proposed development. I know several in our community have already voiced their objections, so I'll keep it short, but please add one more household's objection to the list. This would negatively impact our area on several levels - traffic congestion along Camino Tassajara would become intolerable, the schools out here are already impacted and this would only worsen the problem, the water shortage itself should justify putting a hold on more development, more homes, more lawns, not to mention this development would take away the beautiful hillside we currently enjoy. Please consider all the negative impacts and do not put your stamp of approval on this project. 1
Sincerely,
Jennifer Sabo
603 Stevens Court
Danville, CA 94506

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Jennifer Sabo (SABO)

Response to SABO-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. As part of the traffic analysis, the TIA analyzed traffic along Camino Tassajara Road and on Crow Canyon Road. Where the analysis identified significant Project-related impacts, mitigation measures were also provided in order to reduce the identified impacts to less than significant to the extent feasible.

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John Oborne

From: Gita Gmail <gita.saxena@gmail.com>
Sent: Tuesday, November 29, 2016 7:34 AM
To: John Oborne
Subject: Hi

Hi John,
Please don't approve the tassajara parks project near camino Tassajara. This area has so many school. A lot of kids walk to school and having so many houses will create a lot of safety issues on the road. 1

Gita Saxena
4412 fleetwood rd, danville, CA 94506

Sent from my iPhone

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Gita Saxena (SAXENA)

Response to SAXENA-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. See also Master Response 3: Transportation Analysis regarding the scope and methodology used to evaluate the Project's potential traffic impacts. The Project's potential impacts on school facilities are discussed under Impact PSR-3, RDEIR Section 3.11, Public Services and Recreation, on page 3.11-14.

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John Oborne

From: ANN SCHINSKE <aschinske@aol.com>
Sent: Monday, November 28, 2016 12:58 PM
To: John Oborne
Subject: new houses on Comino Tassajara

The roads are packed, the schools are crowded, and we have a water shortage. It seems like a bad time for more houses. Please consider those of us who already live here. 1
Thanks, Ann Schinske

ANN SCHINSKE
aschinske@aol.com

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Ann Schinske (SCHINSKE)

Response to SCHINSKE-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Suzanne Seever <suzanne_seever@comcast.net>
Sent: Wednesday, November 30, 2016 11:45 AM
To: John Oborne

John,
Please don't allow this to happen.
Suzanne

Sent from my Verizon 4G LTE Droid

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Suzanne Seever (SEEVER)

Response to SEEVER-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Glen Simmons <acadtool@comcast.net>
Sent: Tuesday, November 29, 2016 7:57 PM
To: John Oborne
Subject: Tasssjara parks project

Mr. Oborne,

I live in the Monterosso subdivision in Danville. I have been reading about the various versions of the Tassajara Valley project as it has evolved over time. As an architect I am generally not opposed to another subdivision. In fact I am quite often on the side of a developer to build a project. However, I am opposed to this particular project. It is not because of the additional traffic or impact to schools. I am opposed to the fact that it is built beyond the urban limit line that was set by the vote of the People. I have to wonder if we are still living in a democracy after watching 270 electoral votes beating out over 2 million popular votes to elect the new president. Why did the County even allow a vote of the People to set an urban limit line if they are only listening to one Developer? I don't care if it is one house or 125 houses, it is wrong to allow a project to be built without a new vote of the People to adjust the limit line and set this project within the urban limit. 1

Please convince the County to stop this project until the proper rules to expand the limit line are enforced.

Thank you,

Glen Simmons

605 Colmar Ct.

Danville CA

925-984-2557

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Glen Simmons (SIMMONS)

Response to SIMMONS-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. The RDEIR includes analysis of the proposed adjustment of the ULL in Section 2, Project Description, subsection 2.2.5 (page 2-15) as well as at page 3.9-32 in Section 3.9, Land Use, Population, and Housing.

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10/25/16

Mr John Oborne
Contra Costa County Dept. of Conservation Development
30 Muir Road
Martinez, CA 94553

RE: Proposed Tassajara Parks Project "RDEIR"
County File # GP07-0009, RZo9-3212, SD10-9280, DP10-3008

Dear Mr. Oborne,

We were recently heard about the "RDEIR" and went on line to find out what the changes were to the original Draft EIR. We find it interesting that there doesn't appear to be any intent by Contra Costa County to notify affected residents directly of these changes, and those of us that expressed concern on the last go around. 1

The "RDEIR" does not address the traffic problems already in existence on the Southern stretch of Tassajara and along Highland Road.

We live off Johnston Road and have been residents here for 30 years and cannot believe the terrible increase in traffic over the last 10-15 years. We have a very difficult time accessing Tassajara from Johnston Road both in the peak AM and PM traffic rush hours and for most of the day. We literally take our lives into our hands trying to merge onto Tassajara with out being run off the road by a steady flow of traffic greatly exceeding the traffic limits. 2

The Draft EIR and the "RDEIR" make no mention of impacts to traffic beyond Finley Road-South to Windemere and along Highland Road, a very dangerous stretch to travel. Add in the increasing flow of bicycle riders and we are looking at a disaster waiting to happen. On top of that, we will have an additional 2000+ drivers traveling on our roads coming from the new developments in East Dublin scheduled to open in the next year. This will be a traffic disaster. 3

The fact that this stretch of critical traffic flow has not been addressed is irresponsible. We need to have a stop sign or stop light at Johnston Road and Tassajara Road to safely merge with the speeding traffic. We need to have traffic enforcement to slow the flow of traffic along our county roads including Highland Road, including better signage and radar signs advising of drivers speeds in relation to posted limits.

On top of all of this the litter problems along our roads has greatly increased. If the county can't afford to manage this problem and all the other problems created by the increased population, they have no business approving additional housing, especially into the ULL! 4

Please address these issues before adding another 125 units (potential 250 additional cars) to our dangerous – over crowded road.

Sincerely,

Jim & Cathy Soule

Jim & Cathy Soule'
7470 Johnston Road
Pleasanton, CA 94588
925-785-7843

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Jim and Cathy Soule (SOULE)

Response to SOULE-1

Upon completion of the RDEIR, the DCD filed an updated Notice of Completion (NOC) with the State Office of Planning and Research to begin the 45-day public review period (Public Resources Code, Section 21161). Concurrent with the NOC, this RDEIR was distributed to responsible and trustee agencies, other affected agencies, surrounding cities, and interested parties, as well as all parties requesting a copy of the RDEIR in accordance with Public Resources Code 21092(b)(3). Hard copies of the RDEIR (including all appendices) were also made available for review by the public at several locations, including the Contra Costa County Department of Conservation and Development Community Development Division, the Office of District II Supervisor Candace Anderson, Danville Library, San Ramon Library, Contra Costa County Library Dougherty Station Branch, and the Pleasant Hill Library Contra Costa County Main Branch. CEQA does not require a "redline" be provided that reflects changes between a Draft EIR and an RDEIR. Nevertheless, although not required to do so under CEQA, in an effort to ensure full disclosure, the County has instructed the CEQA consultant to prepare detailed responses to comments made in connection with both the DEIR and the RDEIR, all of which are included herein.

Response to SOULE-2

See Response to NEWMAN-2 for a discussion of how the study area and intersections were identified. See also the RDEIR analysis in Section 3.12, Transportation and Traffic, at pages 3.12-82 to 3.12-86, which confirms that with mitigation, the Project's design features would not create significant hazards. See also Master Response 3: Transportation Analysis.

Response to SOULE-3

See Response to NEWMAN-2, which explains the methodology by which the study area was selected for purposes of the traffic analysis. Please also refer to Master Response 2: Agricultural Preservation Agreement.

Response to SOULE-4

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. Furthermore, to the extent the comment presents a general opinion of the merits of the Project, no response is required. For informational purposes, it is noted that the relevant agencies charged with maintaining public roads have robust litter reduction programs, and it is reasonable to assume these will continue to be implemented.

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John Oborne

From: Linda Stevens <linir49er@sbcglobal.net>
Sent: Monday, November 28, 2016 4:13 PM
To: John Oborne
Subject: Tassahara

I live in MeadowWood on Camino Tassahara and Lusitano. I love the hills and the cows because we do not have the beautiful nature with all the overcrowded houses going up everywhere! There should be a moratorium on building anymore homes because not only is it overbuilt but the traffic is getting horrible and dangerous!!! Please find another area that has more room!! This is out of hand!!! Linda Stevens 415-999-9613!! 1

Sent from my iPhone

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Linda Stevens (STEVENS)

Response to STEVENS-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Lloyd Szabo <ldszabo57@gmail.com>
Sent: Tuesday, October 25, 2016 11:34 AM
To: John Oborne
Subject: Tassajara Parks Development

Everything I have read and researched show this project should not be allowed to proceed. The adverse effects on the area is substantial especially with regard to the water aspect. How this has proceeded is beyond my comprehension. 1
Cannot imagine what political advantage this gives the county and it's representatives. How about representing the citizens of Tassajara?

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Lloyd Szabo (SZABO)

Response to SZABO-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Flola Tam <charlie.akaflola@gmail.com>
Sent: Tuesday, November 29, 2016 2:25 PM
To: John Oborne
Subject: New homes

Hello,
I saw on the Nextdoor App that another 125 homes are soon to be built in the area. I wanted to express my discontent with this decision.
The Bay area, even here in the Tri-Valley, have suffered from the huge influx of people. Traffic has slowed to a crawl. Roads are crowded. Recourse and goods are expensive. Schools are over populated, damaging the quality of education. My time in Dougherty valley high has shown me that infrastructures such as basketball and class availability suffer from overpopulation. Jobs are harder to come by. Competition for jobs and college has tightened every year. 1
Don't build new homes. Our surrounding cities, San Ramon and Dublin, are already in the midst of building homes. Don't do the same here. Leave at least one city unaffected.

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Flola Tam (TAM)

Response to TAM-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From:	Ginger Taylor Google <gingbug@gmail.com>
Sent:	Sunday, November 20, 2016 7:20 PM
To:	John Oborne; John Kopchik; Mary Piepho; Supervisor Candace Andersen; dburgis@ebparks.org; District5; John Gioia; SupervisorMitchoff; bclarkson@sanramon.ca.gov; sperkins@sanramon.ca.gov; dhudson@sanramon.ca.gov; poloane@sanramon.ca.gov; hsachs@sanramon.ca.gov; arnerich@danville.ca.gov; mdoyle@danville.ca.gov; rmorgan@danville.ca.gov; storer@danville.ca.gov; kstepper@danville.ca.gov; lblackwell@danville.ca.gov
Cc:	James Taylor; Chris Bourassa; Sandee Wiedemann; juliesbuckley@gmail.com; Jon & Michele Ulrech
Subject:	Tassajara Parks and Mou

RE: Tassajara Parks development and MOU

My family bought 2+ acres off of Finley about 3 years ago. When we moved here, we felt like we found a piece of heaven tucked into this beautiful valley. We have recently remodeled our home and hope to live here throughout out our retirement. More than half of our retirement is now tied up in our property.

A year and a half ago there was the big drought. Many neighbors had their wells go dry. EBMUD refused to sell water to these neighbors, even to truckers bringing it to people to fill up 5,000 gallon water tanks. We listen to many people in Danville and San Ramon complain about losing their lawns. Here, people were catching water from showers so they could brush their teeth. Seriously!

Now, Tassarajara Parks has the potential to be developed. Supposedly there was an ecological assessment performed and said there is no adverse impact. I'm not sure what they were looking at. As I look at that land, it's at the bottom of a hill side. It's the one patch of green all summer long. Surely it is the water shed from that hill. And surely that water percolates into the ground and feeds all of our wells, which are down hill from there. Am I sure? No. But are you sure it's not?? Did your ecological survey look into this issue? There are hundreds of homes counting on water. What happens when large earth movers and lots of construction works on that land? Will it collapse an aquifer? What happens when the homes are built? Will it divert the water to a different path? And all of our homes that built with existing water assumptions, will we be out of luck?? 1

Ironically, the MOU, also pushed by the Tassajara Parks developer (I think, hard to follow all of this...), has put forth a proposition that no additional wells can be dug and no water can ever come here?? Really? What happens if my well goes dry? Is this how they get to buy my land for 1/10th of what I paid? I really, really don't get this! 2

Help the people in this valley, please. We are families and ranchers trying to preserve our way of life. It's not complicated; we need access to water.

All we want is to maintain the ability to dig wells as we need to. And, if you're going to build, allow us to buy water from a local water source e.g. a fire hydrant on Camino Tassjara so we can truck it in. We're willing to have a little inconvenience to keep our little slice of heaven. We don't expect you to put in full water lines to all of our homes. But we MUST be able to put in wells and we must have options to buy water if you're going to change our environment. 3

-Ginger and Jim taylor
1250 Country Ln.
Pleasanton, CA 94588
Cell 925.997.3045

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Ginger and Jim Taylor (TAYLOR)

Response to TAYLOR-1

The effect of the Project on groundwater resources is evaluated in Section 3.8, Hydrology and Water Quality, starting on page 3.8-9. As discussed, the Project would not adversely affect groundwater resources, and no mitigation would be required.

Response to TAYLOR-2

The commenter is mistaken in his belief that the Agricultural Preservation Agreement (formerly referred to as the MOU) would prevent any further drilling of wells in the area. Please see Master Response 2: Agricultural Preservation Agreement.

Response to TAYLOR-3

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Christa Thompson <4thompsonfamily@comcast.net>
Sent: Monday, November 28, 2016 5:18 PM
To: John Oborne
Subject: Tassajara Parks Project

Hi John,

My name is Christa Thompson and my family and I have lived in Danville (Blackhawk)for almost 20 years. I have read about the proposed Tassajara Parks Project and wanted to send my thoughts. One of the reasons we moved to Danville was because of it's beauty which as more and more housing developments go up is disappearing. We also have major traffic problems that will only get worse with more houses. Please do not approve this project. I am not sure where you live, but if you lived off of Tassajara Road you would understand. My daughter who is 23 and now lives in New York, always comments when she is visiting that she hopes there never comes a time when all of our beautiful hills are gone because they are covered with more houses. 1

Thank you for your time,
Christa Thompson

Sent from my iPhone

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Christa Thompson (THOMPSON)

Response to THOMPSON-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Dennis VanWagner <dvanwagner@sspllc.com>
Sent: Tuesday, November 29, 2016 12:24 PM
To: John Oborne
Subject: Tassajara Road Development of 125 Homes

Dear Mr. Osborne,

I writing to voice my concern regarding the approval of 125 new homes to be built on Tassajara Road near Tassajara Hills Elementary School.

In my opinion, this new home development will create additional traffic, create more overcrowding of the local schools not to mention, if approved
change the beautiful rolling hills landscape along Tassajara Road. The home development project further down along Tassajara Road at Fallon
Road has already created inconvenience to local residents with the closure of Tassajara Road for over 8 months which has detoured traffic from Tassajara Rd. through
San Ramon and to Pleasanton When is enough, enough? 1

I hope you'll consider the implications of the approval of building another home development in this area before authorizing the developers plan to build on the
Proposed site along Tassajara Road. I've lived in this area for over 30 years and seen lots of change, some good, some not so good. I'm not an environmentalist, anti-build, anti-progress person but I moved
Here to get away from traffic and congestion and to enjoy a more rural setting to live but it seems as though the planning and the addition of als of the new housing developments in this
Area over the past 10 years or so has spiraled out of control. Again, when is enough, enough?

Thank you for your consideration.

Sincerely,

Dennis Van Wagner
3319 Quail Walk Lane
Danville, CA 94506
Telephone: 925-984-9260

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Dennis Van Wagner (VAN WAGNER)

Response to VAN WAGNER-1

See Response to Comment LOGUE-19 regarding the evaluation of the Project's traffic impacts. The RDEIR evaluated the Project's potential impacts on schools, and confirmed there would be less than significant impacts (RDEIR Section 3.11, Public Services and Recreation, pp. 3.11-14). See also Master Response 3: Transportation Analysis.

Consistent with SB 50, the ability to require mitigation of school facility impacts as a condition of approval is limited. The RDEIR included additional references to fees that could be imposed under SB 50 to offset potential effects of increasing enrollment.

To the extent the comment presents a general opinion on the merits of the Project, rather than specific Project-related environmental issues under CEQA, no response is required.

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John Oborne

From: Christian Wiedemann <christian.wiedemann@gmail.com>
Sent: Wednesday, November 30, 2016 5:01 PM
To: John Oborne
Subject: Comments on Tassajara Parks DEIR

Dear Mr. Oborne,

This email is in response to the Tassajara Parks Recirculated Draft EIR, specifically the Memorandum of Understanding ("MOU") portion of the DEIR. My family is an agricultural producer in the Tassajara Valley and would be subject to the agreement.

County staff have been open about the fact that the MOU was written by the Tassajara Parks developer as a creative means of moving the Urban Limit Line for the project without a public vote. However, there are several fundamental flaws with the developer and County using this approach.

First, in order to make the finding Tassajara Parks needs, the County code requires "a majority of cities that are party to a [Memorandum of Understanding]" to approve a change to the Urban Limit Line. Only San Ramon has said they are willing to sign the MOU. Danville has refused to sign and is opposed to the concept of an MOU altogether. Proceeding with San Ramon as the only city party to the MOU would violate the intent of the County code, not to mention the will of the voters who passed Measure L.

The MOU is also contradictory in the sense that some of its provisions actually facilitate additional development in Tassajara. According to language in the MOU, a developer simply needs to contribute $4M and 500 acres of open space to the County in order to qualify for the same ULL code finding Tassajara Parks hopes to receive. This is a major area of concern for many residents in Tassajara as well as in neighboring communities. 1

County staff has also suggested that the MOU would be a benefit to agricultural producers as a means of justifying applying the MOU to properties that are unrelated to the Tassajara Parks project. The local association of Tassajara agricultural producers has held multiple meetings to discuss their opposition to the MOU, and has raised a legal fund specifically to oppose it.

There are several viable alternative approaches the County could take to provide the developer with the finding needed to move the Urban Limit Line, that make more sense than the MOU. A few of these are:

- Limit the boundary of the MOU so that it applies only to the Tassajara Parks footprint.
- Make a different finding under the code; County staff has admitted it would be possible to make another finding to move the ULL.
- The Urban Limit Line is currently undergoing a study to determine whether it needs to be adjusted. The study will be complete at the end of this year. The County could move the ULL as part of that study.

To summarize:

- The only city willing to sign the MOU is San Ramon, which would seem to violate the intent of the County code, not to mention the will of the voters.

- The MOU contradicts itself, claiming to preserve open space while simultaneously providing a path forward for a near-term expansion of the Urban Limit Line as well as creating a legal precedent for additional expansions in the future.
- Tassajara agricultural producers, the people the MOU claims to benefit, oppose the agreement and have hired an attorney to support their effort.
- There are other viable alternative options for the developer and County to move the ULL without a public vote.

1
CONT

The County should explore the alternative approaches described above. The alternatives will provide the developer with what he needs to move the ULL, and will allow the Tassajara Parks project to move forward, without the questionable issues that go along with the MOU in its current form.

Sincerely,

Christian Wiedemann

--
Christian Wiedemann
415 794 3394 | christian.wiedemann@gmail.com

Christian Weidemann (WEIDEMANN-C)

Response to WEIDEMANN-C-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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WIEDEMANN RANCH
6989 Highland Road
Pleasanton, CA 94588
November 29, 2016

Mr. John Oborne, Senior Planner
Contra Costa County Dept. of Conservation & Development
651 Pine Street
Martinez, CA 94553

Re: Tassajara Parks R-DEIR

Dear Mr. Oborne

Thanks for the opportunity to express my concerns regarding the Tassajara Parks project R-DEIR. On behalf of the Wiedemann family, owners of several hundred acres of agricultural land directly affected by this project, I find that the R-DEIR is inadequate and/or fails completely to address the severe impact being imposed on agricultural land, landowners and future agricultural development. 1

I would urge Contra Costa County to revise the R-DEIR to reflect the following concerns:

1. **The MOU, inextricably linked to the Tassajara Parks project, erodes existing agricultural activities in the Tassajara area causing irreparable harm to the agricultural community and to the environment.**

Under Section 3.2.3, the R-DEIR implies that the FPPA and this project would minimize the conversion of farmland to non-ag uses. In fact, the opposite is true. The MOU between Contra Costa County, EBRPD, Danville and San Ramon (Section 3.2.6) imposes severe restrictions, stifles economic opportunity and creates a conspiracy between the named parties and others to prohibit numerous activities important to Ag landowners. This MOU is just the latest in a long running series of restrictions, regulations, conditions, designations and controls. 2

The effect is to drive agricultural enterprise out of the area. What replaces agriculture is an unplanned patchwork of cross-fenced parcels. Some are overgrazed, some are undergrazed, some are left fallow, most become the repository of discarded junk, dilapidated buildings, bad fences and an absence of management. The 80 acre zoning in the area is too large for horses, too small for farming and cattle and too much trouble for most urbanites thinking they should move to the country.

2. **The project-associated MOU wrestles ownership and control of agricultural lands away from productive private decision makers and into the stagnant quagmire of public management. The environment and agriculture both suffer.**

The thinly veiled ruse of Enhancing Agriculture does everything it can to facilitate the conversion of Ag Lands into public management and ownership of Open Space. The Tassajara Parks' MOU actually offers NO enhancement or encouragement to agriculture. Instead, so-called "willing sellers", burdened by regulations and often tax crises are forced to sell Conservation Easements or fee title to public agencies and habitat oriented Land Trusts. 3

Stewardship of publicly managed lands has a checkered past. Mismanagement is not hard to find. Look at overgrown forest lands and their associated fires, public rangelands devastated by overgrazing herds of starving wild horses and burros, brush encroachment in State Parks like Henry Coe and Mt Diablo, and grasslands being taken over by brush on EBRPD lands while invasive species go unchecked.

Public management is a better choice for parks but not for agriculture. With the world population projected to reach 9 billion in 30 years, agriculture will have to double its food production using less available water, less arable land, "softer" production methods and all under a changing climate? Drowning agriculture under a sea of regulations in the hopes that Tassajara will just "stay the same" is denial not planning.

Jeff Wiedemann, President
Wiedemann Ranch, Inc.

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Jeff Weidemann (WEIDEMANN-J)

Response to WEIDEMANN-J-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. Also see Response to WEIDEMANN-C-1.

Response to WEIDEMANN-J-2

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. Please refer to Master Response 2: Agricultural Preservation Agreement for further discussion of same (formerly referred to as the MOU).

Response to WEIDEMANN-J-3

Please see the RDEIR Section 2, Project Description, subsection 2.2.6, for a discussion of the Agricultural Preservation Agreement (formerly referred to as the MOU), as well as Master Response 2: Agricultural Preservation Agreement.

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John Oborne

From: Sandee Wiedemann <xosandee@earthlink.net>
Sent: Sunday, November 13, 2016 8:52 PM
To: John Oborne
Cc: John Kopchik; Mary Piepho; Supervisor Candace Andersen; dburgis@ebparks.org; District5; John Gioia; SupervisorMitchoff; Clarkson, Bill; Scott Perkins; Hudson, Dave; Philip O'Loane; Sachs, Harry; Newell Arnerich; mdoyle@danville.ca.gov; Renee Morgan; storer@danville.ca.gov; Karen Stepper; Lisa Blackwell
Subject: Tassajara Parks' MOU

To John Oborne and Deciders of My Land's Fate:

Our family's cattle ranch is outside the ULL and is zoned 80 acres. NO "urban sprawl" here.

ANOTHER layer of government heaped on us and our neighbors of **17,718 acres** so developers can build homes near us is outrageous to me.

The County has other options to allow the stretching of the ULL! I did not oppose the development before the MOU was presented, because I feel strongly that I get to live here, why shouldn't they. We just need to figure out a workable way to allow for traffic, water, and consideration of others' property rights, etc.

Still called "Ag Enhancement," the revised MOU now excludes 90% of $4M for ag, leaving $22.58 per acre to enhance agriculture on 17,718 acres. About the only benefit in the draft to agriculture is that the County could send out some ag experts to teach the farmers and ranchers how to run their businesses! Most have been running their family businesses for generations on this land, and are educated specific to their endeavor. There are many ways the County can help, including programs which have been cut, like thistle control, and ground squirrel abatement, but how can ag be enhanced across the Valley with a one-time $400,000 set aside? 1

It has become clear that the 90% will go to environmental groups instead of ag. My experience is that their approach is to devalue our land, so when there are no other options than to become "willing sellers" to them it is at a comparatively low price.

Danville opposes the MOU because it is against the will of the voters who approved the ULL, among other reasons.

I oppose the MOU because it is written by and to the benefit of the developer at personal cost and consequences to neighboring landowners.

Please do not allow this to pass!

Respectfully,

Sandee Wiedemann
6500 Highland Road
Pleasanton CA 94588

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Sandee Weidemann (WEIDEMANN-S)

Response to WEIDEMANN-S-1

Please refer to Master Response 2: Agricultural Preservation Agreement.

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John Oborne

From: Paul Zegar <pzegar@mac.com>
Sent: Monday, November 28, 2016 4:18 PM
To: John Oborne
Cc: Supervisor Candace Andersen
Subject: Tassajara Parks Project

Mr. Oborne:

I have just been made aware of the Tassajara Parks project and I want to convey my opposition to it based on several factors.

1

- Already the roads (primarily Camino Tassajara) in the area cannot handle the traffic. Traffic congestion in the morning and late afternoon is abysmal. Adding traffic from 125 more residences borders on insanity.

2

- We have been told repeatedly from the water agencies and officials in Contra Costa County and the state that we have an ongoing water shortage. Now you want to add 125 more residences? Either we have been lied to concerning the water situation, or planners are ignoring the water situation. Which is it?

3

- According to your map, these 125 residences will add only 375 people. I call BS on that. If you are using that number in your planning, you are seriously miscalculating. In all likelihood, these residences will be homes to families with kids. Which brings me to my next point.

4

- The schools in this area are already over crowded. Is the builder going to pay for school expansion or will this be a burden on taxpayers, while the builder walks away with their profits?

5

I wish I had known about this project months ago, but the last I heard, the project was dead. My neighbors are also unaware of it, so clearly the county (your office) did not do an adequate job of letting us know about a proposed project that would have such a severe impact on our community. I understand the comment period ends this Wednesday. At the very least, this project should be shelved and notices sent to every homeowner in Danville and San Ramon so we can have a chance to provide input at a planning meeting and council session. Preferably, this project should not be approved.

Thank you for your consideration.

Paul Zegar
5018 Starling St.
Danville, CA 94506

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Paul Zegar (ZEGAR)

Response to ZEGAR-1
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Existing data on Camino Tassajara was collected and used to evaluate baseline existing conditions in accordance with requirements under CEQA. Future traffic, as estimated by the CCTA TDM, was used to evaluate near term and cumulative 2035 conditions. Consistent with applicable guidelines and policies, analysis was conducted with these baseline conditions and Tassajara Parks Project trips added on top of the network. Where significant Project-related impacts were determined, feasible mitigation was also identified that would reduce the impact(s) to less than significant. Transportation was evaluated consistent with maintaining agency policies. See also Master Response 3: Transportation Analysis.

Response to ZEGAR-2
The comment is noted. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution as well as Responses to EBMUD-14 and -15, above.

Response to ZEGAR-3
The RDEIR Section 3.9, Land Use, Population, and Housing, page 3.9-12, notes that the Single-Family Residential High Density designation has an average of 2.5 to 3 persons per household. To be conservative, the RDEIR carried forward a factor of 3 persons per household, the higher end of this range.

Response to ZEGAR-4
As discussed in Section 3.11, Public Services and Recreation, on page 3.11-14 and -15, as a condition imposed on the Project's discretionary entitlements and triggered at building permit issuance, the Project applicant would be responsible for paying its fair share of these school facility fees in accordance with applicable laws. SB 50 provides that statutory developer fees shall be the exclusive means of considering and mitigating impacts on school facilities that occur or might occur as a result of approval of the development of real property.

Response to ZEGAR-5
Upon completion of the RDEIR, the Contra Costa County Department of Conservation and Development (DCD) filed an updated NOC with the State Office of Planning and Research to begin the public review period (Public Resources Code, Section 21161). Concurrent with the NOC, this RDEIR was distributed to responsible and trustee agencies, other affected agencies, surrounding cities, and interested parties, as well as all parties requesting a copy of the RDEIR in accordance with Public Resources Code 21092(b)(3). Hard copies of the RDEIR (including all appendices) were also made available for review by the public at several locations, including: the Contra Costa County Department of Conservation and Development Community Development Division, the Office of District II Supervisor Candace Anderson, Danville Library, San Ramon Library, Contra Costa County Library Dougherty Station Branch, and the Pleasant Hill Library Contra Costa County Main Branch. In addition, the RDEIR (including all Appendices) were made available online on the County's website.

Separate and apart from noticing procedures under CEQA, the County will also send out the required notice as mandated by state law and the County Code regarding the upcoming public hearing process on the Project.

John Oborne

From: jared zeretzke <jared.zeretzke@gmail.com>
Sent: Wednesday, November 30, 2016 12:51 PM
To: Dleatherman@cpud.org
Cc: John Oborne
Subject: Tassajara Parks Proposed Development

Dear Donna Leatherman and CPUD Boardmembers;

CC: John Oborne, Senior Planner Contra Costa County Department of Conservation & Development

As a resident of Wilseyville,and a voter in Calaveras County, I would like to write this letter to urge the CPUD water board not to sell water out of Schaad's reservoir to any Contra Costa County municipalities, including the Tassajara Parks Project. 1

The submitted EIR for the Tassajara Parks project states 2 options for securing water for this proposed development.

1. Adopting water conservation measures to support development.
2. Purchasing water rights through EBMUD (extending its water rights to the Mokelumne watershed)

To be clear the Tassajara project is the definition of urban sprawl: currently the area is outside the urban limit line and designated A-80. land exclusively designated as intensely agricultural and placed outside the boundaries of the urban limit will be converted to residential. Looking at the site plans and EIR available at Tassajaraparks.com 2

one sees a textbook visual representation of sprawl. Habitat fragmentation, lack of water resources, adjacent to intensely developed neighborhoods, no retail planned, contribution to traffic congestion on I-680/580 , and lack of affordability are several that leap out immediately. this development is worth hundreds of millions. which sets the stage for Additional development in the southern portion of Tassajara Parks utilizing the precedent of the Urban limit line adjustment and the virtually free water supplied by CPUD. 3

Contra Costa County Senior Planner John Oborne relays the message that this project does not need to purchase water from CPUD, saying explicitly " We don't need to go to Calaveras." 4

Here we have the senior planner for the Department of conservation & development of Contra Costa County stating that this proposed developments water purchase is unnecessary.

Meaning Tassajara Parks (and other proposed developments) can and will rely on Contra Costa County water conservation measures to support future development.

John Oborne was quoted by Calaveras Enterprise in an article published by Sean P. Thomas 11/17/16.

4
CONT

Danville, the city this project is located in, has a family median income of $148,013.

It is one of the wealthiest cities in America, and has been nominated the 2nd wealthiest city in America with a population over 40,000.

Danville receives on average 15.33 inches of rain per year. It's land Area is designated as 18 sq. miles. Of that area, 0.0% is designated as water.

While looking at the proposed Tassajara development I could see this 0.0% designation as water is not correct. there are many golf course developments in the area and all of these golf course have water features.

The proposed Tassajara Parks development is located in Danville, zip code 94506. The median home in 94506 sells for $1,246,300 dollars.

All information from Danville,CA entries on Wikipedia.com and Zillow.com

5

This is just to illustrate the wealth that developing more urban sprawl like Tassajara Parks would generate in Contra Costa County. 125 new multimillion dollar homes and all the water they need for $250.00 an acre foot. To reiterate an acre foot is 325,851 gallons.

This is water sold to the proposed Tassajara Parks at the rate of .00076 cents a gallon, or about $1 per 1425 gallons of water delivered.

As I understand CPUD fee schedule correctly, current rates CPUD in Calaveras County charges are: $661.24 per 250,000 gallons with additional 2.20$ per 1000 gallons. if this is correct then to install an 8" pipe and receive an acre foot of CPUD water in calaveras county would cost me approximately 825 dollars.

That means if correct CPUD is charging 230% more to its customers in Calaveras County than it is charging to a proposed development 120 miles away from the point of origin.

Hopefully I misinterpreted the CPUD fee schedule.

Rates derived from CPUD.org fee schedule

6

I encourage the CPUD to look at the proposed area on google maps and view the residential density and size of these homes in the area adjacent to this proposed development. Specifically view the BlackHawk gated community and golf course. This is a gated community that is within a 1/2 mile of the proposed Tassajara Parks. Clearly these developments care little for water conservation. Unmitigated consumption and lavish wealth are on display. Without EBMUD supplying water to these communities they would not function. There is disingenuity in Mr. Oborne's statement of " we don't need to go to Calaveras". without the Mokelumne river and EBMUD providing water there would be not be the runaway development and congestion in the Tri-Valley. 7

The developers seek to greenwash this by claiming they are consolidating residential housing to a smaller footprint, while preserving rangeland and equestrian areas. This is not true, the land preserved will be summarily developed and the same tactics used. Moving the urban limit line for Tassajara Parks will simply set a precedent. The ULL will be moved again, and the middle Fork of the Mokelumne will be expected to give its water virtually free to to the wealthiest of Californians to utilize for pools, gated golf course communities, and lawns. 8

The pertinent question is: Should CPUD Sell water out of the middle fork of the Mokelumne watershed to subsidize sprawl in an arid valley for the wealthiest 1% of Americans, while simultaneously degrading both wilderness habitat and converting AG-80 land to residential? 9

Conservation, sustainability and resiliency should be the focus of new developments in California. Selling water rights from foothill communities to support sprawl at the rate of $250 per acre foot is simply giving away our resources for development projects that exacerbate the problems we will continue to face in the 21st century.

Certainly this project does not benefit Calaveras County residents at all and the fact that the EIR was originally not distributed to any Libraries in Calaveras County reinforces the notion that this proposed development is seeking to sign a long term water lease agreement that essentially sets a precedent for unsustainability, unaccountability and unchecked urban sprawl. 10

Developing Tassajara Parks will provide commuter homes that only the wealthiest Californians can enjoy. This project does not support Calaveras Communities and effectively opens the door for future developments to lay claim to our water resources, all while degrading critical wilderness in the midst of a multi year drought whose intensity seems to only seems to be increasing. This project does not make any sense, financially or ecologically and I do not support it. 11

Do not sell our water rights to Tassajara Parks or any developments in the Tri-Valley.

CPUD Do not support this proposed Project.

Sincerely,

Jared Zeretzke

Wilseyville,CA

Sent from my iPad

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Jared Zeretzke (ZERETZKE)

Response to ZERETZKE-1
The comment is noted. The Project no longer proposes to utilize CPUD water. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to ZERETZKE-2
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to ZERETZKE-3
As discussed more fully in the RDEIR, Section 3.4 (Biological Resources), the Project would not interfere significantly with the movement of native wildlife, on a regional or a local level. All residential and related infrastructure to be developed would be restricted to a small portion of the Northern Site. The proposed residential development on the Northern Site is abutting Camino Tassajara on the southern boundary, which already acts as a significant barrier to overland migration coming south from the Mount Diablo State Park lands. Since the proposed residential development on the Northern Site would occur immediately adjacent to Camino Tassajara, this would not significantly change wildlife migration or cut off connectivity of the preserved portion of the Northern Site with the open space and Mount Diablo State Park to the north. With respect to the proposed trail and Future Equestrian Staging Area on the Northern Site, these elements were evaluated in the RDEIR and confirmed that they would not create significant wildlife barriers and, therefore, would not interfere significantly with wildlife movement. Moreover, as discussed above, the equestrian staging area is no longer a component of the Project; also, the previously proposed trail is no longer a distinct Project component as a result of the proposed conveyance in fee of 101 acres of the Northern Site to the EBRPD. With respect to the commenter's general concerns about lack of water resources, land use compatibility, and traffic congestions, each of these issues is studied in detail in the RDEIR. Refer to Master Response 3: Transportation Analysis for further discussion.

Response to ZERETZKE-4
The Project no longer proposes to utilize CPUD water. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to ZERETZKE-5
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments

Response to ZERETZKE-6
The Project no longer proposes to utilize CPUD water. For further clarification on water supply-related issues, please refer to Master Response 1: Water Supply and Distribution.

Response to ZERETZKE-7
See Response to ZERETZKE-6.

Response to ZERETZKE-8
See Response to ZERETZKE-6. The opposition to the adjustment to the ULL boundary is noted. The issue raised by the commenter addresses the merits of the Project and does not raise any issues with the environmental analysis provided in the RDEIR. No further response is required. Please refer to Master Response 1: Water Supply and Distribution for further discussion.

Response to ZERETZKE-9
See Response to ZERETZKE-6.

Response to ZERETZKE-10
Please refer to Response to CPC-3.

Response to ZERETZKE-11
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Public and Organization Comments Received at the 11/14/16 County Zoning Administrator Meeting

ZA:

Agenda Item 4a, Jaclyn could you please read that.

'Jaclyn Isip read the project description from the staff report.

ZA: This is a hearing to accept comments on the adequacy of the recirculated draft EIR for the Tassajara Parks project. The notice was sent out on September 29th and the last day to submit comments is Monday, November 14th by 5:00 p.m. This hearing is only to accept comments on the Draft EIR. This hearing is not regarding the merit of the project, so I ask that you please limit your comments to the environmental issues. Thank you. I just have one speaker card at this time. If you wish to speak, please fill out one of these green speaker cards. Thank you. Bill Newman do you want to go first or shall I call another speaker. I can call Juan Pablo Gallman.

PABLO

Juan Pablo: good afternoon my name is Juan Pablo Gallman. I am the land use manager for Save Mt. Diablo. Just like to say having, briefly having reviewed the Environmental Impact Reports, which we are satisfied with their quality and we are highly encouraged with the conservation benefits which are proposed with this project. Thank you very much. 1

NEWMAN-B

ZA: Bill Newman.

Bill Newman: My name is Bill Newman I live at 7300 Camino Tassajara. My comments are about the MOU. Is that okay to talk about that here? It is part of the EIR as far as I'm concerned and it's something.... B-1

ZA: As far as it's about the environmental issues yes.

Bill Newman: ok we will go with this, stop me....in the MOU the specific control over approval or disapproval of a proposed project is given to something called the parties, which in this case, this specific case is the County, Danville, San Ramon and the East Bay Regional Park District. No voice or vote is given to the local land owners, who might be effected by the given proposal. So it could be that any non-urban use can be okay'd by these parties, included in the MOU even though it could be annex by a particular city with- out ever having a second thought to the people who live near this non-urban use. For example the developer or land owner wanted to build a stadium in the Tassajara Valley, it could be considered a non-urban use because it's a sports sort of thing. And it might be highly desirable by the City and it might be a revenue producer to everything, it might be great but at the same time, its present might be totally out of character with the rest of the Tassajara Valley. The local residents would be best equipped to decide with what is in keeping with the character of the Tassajara valley and in fact would be most likely to require consistency in the land use in the area, just because we live there. I therefore propose that the residences of the Tassajara Valley be included as a block in this MOU, so parties might be changed to being as I said before, in Danville/San Ramon in this case because it depends on the cities that surround the proposed ULL violation or the ULL modification. Danville/San Ramon, East Bay Regional Parks and the county, but then another represented from the land owners could be included in that. That's what I'm asking for. All would follow/interrupt the MOU as they see fit, but must agree in the end. Of course if a single group of landowners are proposing the development they would be recuse, B-2

they would be not allowed to.... So that is the concept. It's completely unfair for the MOU and in its current form to give such a level of control over a region or group of people that doesn't include the local land owners in that process. So I claim DEIR is incomplete because includes the MOU was not addressing fully what it ought to do so I'm requesting this change. That's it. I have another a little thing. Traffic impacts, I may be stupid on this but it looks like traffic impacts are the only study is far south of Finley Road? Wait a minute, I think we want to see that all the way to pass Windeman parkway all the way to Fallon and Tassajara Intersection at least and we don't think the traffic impacts have been considered for the new develops that have been going in now down in Dublin. You have Wallace Ranch and you also got two new ones that are extreme northern part of Dublin. And none of that was considered as far as I can tell was considered the traffic report. So I think that needs to be reviewed and revised. A little one, a cumulative effects on the DEIR on page 16, they talk about energy uses, it's just an embarrassing one. It says "this development will use 861 thousand, million kilowatts of electricity" well I think you need to strike the million and you will be about right.

B-2 CONT

B-3

NEWMAN-H

ZA: The next speaker, Holly Newman:

Holly Newman: Good afternoon. My name is Holly Newman and my husband Bill and I live at 7300 Camino Tassajara. I'd like to comment on two aspects of the Revised EIR for the Tassajara Parks Project that are very troubling to me. First of all, the executive summary states, this is the bottom of page 6 and the top of page 7, that "upon completion of the public review period" this is for the revised EIR "written responses to all significant environmental issues raised will be prepared and made available for review for the commenting agencies at least 10 days prior to the public hearing" So far this is great. But this is how the sentence ends "at least 10 days prior to the public hearing, before the Board of Supervisors on the project, at which the certification of the final EIR will be considered. Comments received and responses to comments will be included as part of the record for consideration by decision makers for the project". What happen to the usual process where the Zoning Administrator, such as yourself, considers the certification of the final EIR at a meeting just like this one. And that meeting is followed by a public hearing or hearings before the Planning Commission as which the staff report recommendations are presented, i.e. does the staff report recommend the project is opposed? Or one of the alternatives? Or are they proposing some mixtures of them? Along with the statement of the need for the project. None of that is in the revised DEIR because that is not part of the revised DEIR. Then after the Planning Commission makes their decision, the proposed project can go before the Board of Supervisors if someone chooses to appeal the Planning Commission's decision. It doesn't go straight to the Board of Supervisors. By skipping the Planning Commission hearing, the public loses a significant opportunity to find out what is going on. I do not think this process should be trunk aided. My second issue is with a proposed memorandum of understanding, for the proposed Tassajara Valley agricultural enhancement area. I understand why the developer isn't including this proposed MOU in the DEIR. Something like this has to be done in order to break the ULL for the proposed 30 acre development. This MOU does not affect only the development 771 acres, it affects all of the other property owners in the Tassajara Valley. This MOU needs to have much wider scrutiny devoted to it. It should not be buried as appendix L in the back of a revised DEIR. Where is the publicity around this MOU? Has a copy of it been sent to all the affected land owners along with the description on how it will affect them. And I can say as one of those land owners – no that has not been done. Yes, it's true that Director John Kopchik and Supervisor Mary Piepho are holding a meeting the day after tomorrow, November 9th at the Tassajara Old School House,

H-1

H-2

but that venue is an adorable venue but it's very small. It only holds a fraction of the Tassajara Valley residence and it is unclear how many of them know about this meeting. We only happen to hear about it through word of mouth. Trying to push the Tassajara Parks project forward before this essential element has been approved, is putting the cart before the horse. And I say "Whoa". The Tassajara Parks proposal needs to be put on hold until this MOU has been properly considered. In addition, all the standard steps in this CEQA process need to be followed without skipping the key public hearings before the public, the Contra Costa County Planning Commission. Thank you. H-2 CONT

DEVALCOURT

ZA: Thank you for your comments. Our next speaker is Joel Devlacourt.

Joel Devalcourt: Thank you very much. Joel Devalcourt, with Greenbelt Alliance East Bay representatives. Don't worry everyone gets my name wrong. I want to thank you for the opportunity to make comments on the RDIR. Greenbelt alliance is concerned with RDEIR as we are with the DEIR. We believe the recirculated draft failed to adequately disclose and describe significant environmental impact of the project. Many of which are direct or cumulative inadequately described include the lack of project alternatives, it includes impacts in water supply, gross inducement, the loss of critical habitat, generation of traffic, air pollution and the inadequate description effects on the County's General Plan Growth Management policy and the expansion of the Urban Limit Line. We expect a thorough review of these with the RDIR, comments with those that have been submitted by other organizations individuals. 1

The RDIR reiterates false statement, which was made in the DIR stating that "the project would not extend Urban Services into areas outside the Urban Limit Line and would not result in growth inducing infrastructure". In fact the project itself will move the Urban Limit Line and Urban Services. The DIR and the RDIR apparently presume the Urban Limit Line have already been moved, which is a blatant disregard for the project description itself. These comments are in the record and we hope they are dealt with by the County and other commenting agencies. 2

Tassajara Parks would be the first time that Urban Limit Lines have been expanded to facilitate development residential small development in particular in Contra Costa County. This would have significant growth and inducing impacts. And we believe that data had every level of Government Issue and accommodate growth within our urban limit line for the next 30 years. These 30 acre adjustments which is what is proposed for this project has significant potential impact up to 1,000 parcels throughout the County, and totaling more than 9,300 acres and we believe the RDIR should fully account and analyze the impacts of those potential growth and inducing impacts. The RDIR also fails along with the DIR to significantly analyze the widening of Camino Tassajara, the RDIR was amended to include reference to the County's General Plan, but we believe it has been left out of every other chapter that it should be in including transportation. Biological resources whether air quality issues. 3

In terms of water, we are concerned that the RDIR is reviewed of EDMUD policies, is deeply flawed. It appears that EDMUD policies are in direct conflict with the project proposal to annex into their service area. And however this document only deals with the constrained aspects of recycle water and their conservation plan and does not deal with apparent conflicts with 3 EDMUD policies. 4

Greenhouse gas emissions are significant and unavoidable and that has been calculated apparently in the DIR and we believe that it is astonishing that the significant, unavoidable impacts are considered during in an area of heightened and climate change, tightening restrictions on green house gases by the state SB32. In the newly adopted Contra Costa Climate Action Plan, the RDIR only states that the climate action plan is not appropriate because it was completed after this project was put into the County. So we are concerned that the project doesn't meet the County goals, let alone regional or 5

state. This project fails on every level to meet the greenhouse gas standards of our county. And for the quality of life of our residents and our State of California. So those are additional comments we will providing written comments as well and we thank you for your time. 5 CONT

BURT-2

ZA: Dorothy Burt. That is the last speaker card I have. Is there anyone else wishes to provide comments. Please fill one of these green speaker cards. Thank you.

Dorothy Burt: Hello my name is Dorothy Burt. And I live on Penny Lane which is off of Tassarjara Road. I wanted to address you today because I went to look at the revised EIR down at Dougherty Station, which I was told that the library location. The report would be there in hard copy. Well I looked on several four foot shelves that had many public reports and there was no Draft EIR. So, this was today, I'm last minute. So I went to the librarian and she said "oh it's not there, well ah, let me know in our office" so she went in her office, in the back and I waited and then I waited and then she came out with a book and some papers and manila envelope. She said "oh its still on her desk". On the head Librarian's desk or somewhere. So she gave it to me, but it was not out. And it was not readily available to the public. Of which I am one. Something else that bothered me a lot is when I got to the report it would say as list appendices, index J, or something index this or that. So I went to the back of this very think folder and there was not appendices. There was no additional information. There was nothing on which they had based their argument. It was not available. There was a disc at the back, which I happen to notice and it did say appendices on it. But I had no way to access this information. So therefore, the revised EIR was not available to the public and I am sorry I have to say I think that this operation is in violation of the notification process. 1

I'm looking over the binder, I find that map 2-3b is still mislabeled, even though I said I mentioned it the last time I was here. I will also mention that the revise EIR does not deal with the inadequate GLAD, claiming that the Wendt Ranch information will do for the Tassajara parks site also. This ignores the disparity in the sites and the distance that separates the two because they are not anywhere contiguous, they are two different sites and the GLAD is not adequate to use for Tassajara Parks. 2 3

I do not think project breaking the ULL is necessary at this point. Alamo Creek is not even built out yet. Windemere is still building many different communities. And the water issues are not resolved. Not only was there a big article two days ago about drought insurance being needed, but they have also the recycled water that Tassajara Parks was counting on, was not available to them because the City of Pleasanton had changed its mind and said "no we need it, we can't provide it to you". So therefore I think the water is not resolved. The water issue is not resolved. And they have not made any contingency plans because most of us in the Tassajara Valley depend on wells. And if this project disturbs the underground aquafer, we are at a loss. We have, there is no water line running down Tassajara and rightfully so we are country. Everything at this point is ok. We buy water if we need to or we use our wells. But if the underground aquafer is disturbed, most wells are over 100 feet deep and they only went down between 11 and 41 feet. And they said oh no disturbance. No harm. No foul. Well excuse me we are a little lower than that. And if you put an impermeable project in a basin where water use to peculate down to us, what is going to happen to our wells. So anyway, those are the problems that I see and I do not feel they were addressed. And I especially be the report not being available and the incomplete report, because I understand a lot of information that would have been helpful was in the appendices and the indexes were not copied and made available. Thank you. 4 5

ZA: Thank you for your comments. I believe that is the last speaker card I have. Anyone else that wishes to make a comment. I'm going to close the public hearing. Again as I said earlier, the last date to submit written comments is Monday, November 14th by 5:00 p.m. so if you want to submit some additional comments you are most welcome to submit those before Monday, November 14th. And thank you all for coming in and providing your comments and so I'm going to adjourn the November 7th Zoning Administrator's meeting. Again thank you.

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Comments from Public Hearing, November 7, 2016

Juan Pablo Galván[5] (PABLO)

Response to PABLO-1

The comment is noted. The issue raised by the commenter addresses the merits of the Project and does not raise any issues with the environmental analysis provided in the RDEIR. No further response is required.

[5] Commenter spelled his name Galván on the comment letter for SMD-2 but the Public Hearing meeting comment letter spelled it Gallman.

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Bill Newman (NEWMAN-B)

Response to NEWMAN-B-1
Please refer to Master Response 2: Agricultural Preservation Agreement.

Response to NEWMAN-B-2
The selection of study intersections was determined with input from the County, and the City of San Ramon and Town of Danville. (The City of Dublin was contacted but did not provide any input or comments.) The study was conducted in accordance with CCTA standard procedures. RDEIR pages 3.12-9 and 3.12-10 discuss selection methodology, and identifies 50 peak-hour trips as the threshold for inclusion as a study intersection. The referenced Highland Road intersection would not experience 50 peak-hour trips and therefore was not further evaluated. The methodology is consistent with the relevant agencies' requirements and protocol and industry standards and therefore no additional analysis is warranted. See also Master Response 3: Transportation Analysis.

Response to NEWMAN-B-3
The text on page 4-16 under "Energy" has been revised as follows: "The Project would demand an estimated 861,000 ~~million~~ kilowatt-hours of electricity and 5 million cubic feet of natural gas on an annual basis." This correction merely clarifies and amplifies the CEQA analysis and does not trigger any additional evaluation or recirculation.

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Holly Newman (NEWMAN-H)

Response to NEWMAN-H-1

The referenced text by the commenter is stipulated in CEQA Guidelines Section 15088(b), with which the RDEIR has complied in every respect. The Project's public hearing process is determined by the County as an administrative matter pursuant to applicable provisions of state law and the County Code, and are not within the purview of CEQA or the RDEIR.

Response to NEWMAN-H-2

Please refer to Master Response 2: Agricultural Preservation Agreement.

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Joel Devalcourt (DEVALCOURT)

Response to DEVALCOURT-1
The comment is noted. The issue raised by the commenter addresses the merits of the Project and related Agricultural Preservation Agreement (formerly referred to as the MOU) (Appendix L) and raises general concern with the environmental analysis provided in the RDEIR. Please refer to Master Response 1: Water Supply and Distribution, and Master Response 2: Agricultural Preservation Agreement. No further response is required.

Response to DEVALCOURT-2
Please refer to Master Response 2: Agricultural Preservation Agreement regarding the growth-inducing effect of the Agricultural Preservation Agreement (formerly referred to as the MOU). Although proposed ULL expansions of 30 acres or less do not require voter approval, they are still subject to an extensive, site-specific application process and environmental review, as well as the public hearing process and a supermajority vote by the Board of Supervisors and the requirement that findings can be made based on substantial evidence. Any other potential future development project that may seek to change the ULL would still be required to comply with this process. Therefore, the Agricultural Preservation Agreement would not promote or encourage development on lands now outside the ULL.

Response to DEVALCOURT-3
Please refer to Master Response 2: Agricultural Preservation Agreement for a discussion of extension of the ULL; see also response to Devalcourt-5.

The proposed widening of Camino Tassajara is fully described in the project description and is fully evaluated in Section 3.12, Transportation and Traffic.

Response to DEVALCOURT-4
Impact LU-4, located in Section 3.9, Land Use, Population, and Housing, addresses consistency with EBMUD policies. The policies and related analysis are listed on page 3.9-37 in Table 3.9-7, Consistency with EBMUD Policy 3.01 Exceptions. See also Master Response 1: Water Supply and Distribution.

Response to DEVALCOURT-5
As explained in Response to Danville-21, the Project can be determined consistent with the County's CAP and legislated GHG targets at the time of RDEIR preparation. The Project exceeds only one significance criterion for GHG emissions, which is the BAAQMD service population threshold. The County must weigh all substantial evidence in determining a project's significance. The County made a highly conservative finding of significance by adding the BAAQMD threshold to the analysis, which is not required in areas with qualified CAPs, as is the case in Contra Costa County. The threshold is only one measure of a project's performance that must be weighed. In consideration of the information presented in the RDEIR and in this response to comments document, the County concluded that mitigation measures should be required to reduce Project emissions to the extent feasible. The County identified Mitigation Measure AIR-6 for this purpose. The County assessed the mitigation measures based on information regarding the extent of the impact, the ability of the measures to reduce the impact, and the cost-effectiveness of available measures in making its determination. With conflicting measures of significance and with the criterion indicating

significance being the least relevant measure of significance, the County still concluded that the impact was significant; however, it also concluded that mitigation measures beyond those proposed such as off-site mitigation and greater amounts of solar energy installation should not be required.

Dorothy Burt (BURT-2)

Response to BURT-2-1
Upon completion of the RDEIR, the DCD filed an updated NOC with the State Office of Planning and Research to begin the 45-day public review period (Public Resources Code, Section 21161). Concurrent with the NOC, this RDEIR was distributed to responsible and trustee agencies, other affected agencies, surrounding cities, and interested parties, as well as all parties requesting a copy of the RDEIR in accordance with Public Resources Code 21092(b)(3).

The RDEIR (including all appendices) was also made available to the public at several locations, including: the County's website, the Contra Costa County Department of Conservation and Development Community Development Division, the Office of District II Supervisor Candace Anderson, Danville Library, San Ramon Library, Contra Costa County Library Dougherty Station Branch, and the Pleasant Hill Library Contra Costa County Main Branch. This constitutes compliance under CEQA's noticing procedures; no further response is required.

Response to BURT-2-2
The comment is not clear as to any purported inaccuracies with respect to the map shown as Exhibit 2-3b; and therefore, no change has been made. The discussion of the GHAD can be found on page 2-31 of the RDEIR under "Project Description." The comment does not raise any specific Project-related environmental issues under CEQA; therefore, no further response is required.

Response to BURT-2-3
The discussion of the GHAD can be found in RDEIR Section 2, Project Description, on page 2-31 under "Project Description," as well as in Impact GEO-3, located in RDEIR Section 3.6, Geology, Soils, and Seismicity, on page 3.6-16.

Response to BURT-2-4
Please refer to Master Response 1: Water Supply and Distribution, and Master Response 2: Agricultural Preservation Agreement, for a discussion of the extension of the ULL.

Response to BURT-2-5
Impacts associated with groundwater are outlined in Impact HYD-2 in RDEIR Section 3.8, Hydrology and Water Qality, on page 3.8-9. No new on-site groundwater wells would be drilled as part of the Project. As explained more fully in the WSE, it is anticipated that the Project would generate demand up to approximately 48 acre-feet of potable water annually; refer to Section 3.11, Public Services and Recreation, for further discussion. This source of water originates primarily from surface water, and, therefore, the Project would not deplete groundwater supplies. See also Response to Blood Comment 4, above.

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3.3 - List of Commenters on the Draft EIR

A list of public agencies, organizations, and individuals who provided comments on the Draft EIR is presented below. Each comment has been assigned a code. Individual comments within each communication have been numbered so comments can be crossed-referenced with responses. Following this list, the text of the communication is reprinted and followed by the corresponding response.

3.3.1 - Comments on the Draft EIR

Author **Author Code**

State Agencies

California Department of Fish and Wildlife ..... CDFW

Local Agencies

Contra Costa Local Agency Formation Commission ..... CCLAFCO
Central Contra Costa Sanitary District ..... CCCSD
Contra Costa Environmental Health Division ..... CCEHD
City of Danville ..... DAN
City of Dublin ..... DUBLIN
City of San Ramon ..... SAN RAMON
Dublin San Ramon Services District ..... DSRSD
East Bay California Native Plant Society ..... EBCNPS
East Bay Municipal Utility District ..... EBMUD
East Bay Regional Park District ..... EBRPD

Organizations

Greenbelt Alliance ..... GREENBELT
Mustang Soccer Club ..... MSC
Save Mt. Diablo SMD-2
Windemere BLC Land Company ..... WINDEMERE

Individuals

Charles Bettencourt ..... BETTENCOURT
John C. Christensen ..... CHRISTENSEN
Julie Dormandy ..... DORMANDY
Richard Fisher FISHER-2
Terry Howland HOWLAND-1
Terry Howland HOWLAND-2
Li Fun Kao ..... KAO
Douglas Lacy and Cindy Silvani-Lacy ..... LACY
Gretchen Logue ..... LOGUE
Steven Lowhurst ..... LOWHURST

Anna Nahlik ..... NAHLIK
Gordon and Karen Rasmussen ..... RASMUSSEN
Neil Rosenberg..... ROSENBERG
Jim and Cathy Soulé..... SOULE
Frank Squires ..... SQUIRES
Lloyd Szabo ..... SZABO
Matthew Walley ..... WALLEY
Christian Wiedemann ..... WIEDEMANN-C
Sandee Wiedemann ..... WIEDEMANN-S
Gary and Kathleen Wolfe..... WOLFE
Zheng Zhang ..... ZHANG

Comments from Zoning Administrator's Meeting, June 6, 2016

Holly Newman ..... NEWMAN
Dorothy Burt..... BURT
San Ramon Valley Unified School District..... SRVUSD
Save Mt. Diablo..... SMD
Richard Fisher ..... FISHER

3.4 - Responses to Comments on the Draft EIR

3.4.1 - Introduction

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, Contra Costa County, as the lead agency, evaluated the comments received on the Draft EIR (State Clearinghouse No. 2014052089) for the Tassajara Parks Project, and has prepared the following responses to the comments received. This Response to Comments document becomes part of the Final EIR for the Project in accordance with CEQA Guidelines Section 15132.

Please note that responses to the comments submitted on the DEIR are not required under CEQA in connection with the RDEIR; the County is providing these additional responses voluntarily in an abundance of caution and to further facilitate full disclosure.

3.4.2 - Comment Letters and Responses

The comment letters reproduced in the following pages follow the same organization as used in the List of Authors.

State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
7329 Silverado Trail
Napa, CA 94558
(707) 944-5500
www.wildlife.ca.gov

EDMUND G. BROWN JR., *Governor*
CHARLTON H. BONHAM, *Director*

June 27, 2016

Mr. John Osborne
Contra Costa County
Department of Conservation and Development
30 Muir Road
Richmond, CA 94553

Dear Mr. Osborne:

Subject: Tassajara Parks formerly New Farms Project – Draft Environmental Impact Report, SCH #2011042094, Contra Costa County

The California Department of Fish and Wildlife (CDFW) has reviewed the draft Environmental Impact Report (draft EIR) for the proposed Tassajara Parks Project (Project) located east of the cities of San Ramon and Danville, north and south of the Camino Tassajara and Finley Road intersection. The proposed Project sits on 771 acres of land over two sites; the Northern Site and Southern Site. The Northern Site consists of 155 acres and would include extensive grading, trenching, excavation, sedimentation and soil compaction of 30 acres which would be subdivided into 125 single-family high density homes. Approximately 101 acres of the Northern Site would be subject to deed restriction prohibiting future development. The remaining 25 acres would be subject to extensive grading, trenching, excavation and compaction for the construction of two trail staging areas, trails, detention basin, sewer pump station, frontage improvements and minor modifications to an existing parking lot structure. The Southern Site consists of 616 acres that would be subdivided into 5 acres for Fire District use, 5 acres for school facility use, and 606 acres of open space with various uses including preserve areas under restriction, recreation, parks, open space, grazing and habitat mitigation. In total, the Project has the potential to permanently impact or alter 771 acres of land. The Project also has the potential to impact fish and wildlife resources as well as identified and unidentified tributaries, drainage, and swales of Alamo Creek and Tassajara Creek. 1

Wildlife Surveys

CDFW recommends that when suitable habitat for a special-status species has been determined to occur within a Project site, focused protocol-level surveys be conducted that employ the specific protocol developed and/or accepted by State and Federal Wildlife Agencies. Surveys should be conducted during the appropriate time of year for a given species to determine if it is present. These surveys should adhere specifically to the developed protocols and conduct the recommended follow up surveys in subsequent seasons to reinforce positive or negative findings. All final determination surveys should be conducted within one calendar year of Project initiation to be considered valid. 2

Wildlife Connectivity

The Biological Resources Section of the draft EIR has an adequate section describing wildlife connectivity and how it applies to the Project. CDFW recommends an additional mitigation measure be added to the Biological Resources section of the environmental document to 3

ensure Tassajara and Alamo Creek systems in the Project area remain void of in-channel structures that would impede wildlife movement. The measure should also ensure the Project incorporates undercrossing areas for wildlife, large culverts conducive to allowing wildlife to pass, maintains wildlife connectivity corridors and ensures unimpeded passage from the Northern Site to the Southern Site via greenbelts and between stream systems. 3 CONT

California Tiger Salamander

California tiger salamander has been documented to occur in the southern portion of the Project site as noted on page 3.4-21 of the draft EIR. Therefore, CDFW recommends that protocol-level surveys be conducted for California tiger salamander that employ the specific protocol developed and/or accepted by State and Federal Wildlife Agencies prior to Project initiation. To be considered valid, protocol-level surveys should be completed within one calendar year from start of Project construction. CDFW survey and monitoring protocols and guidelines are available online at: http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html. Results from these surveys should be used to determine the extent of impact to California tiger salamanders and to develop additional avoidance, minimization and compensatory mitigation measures. Any additional measures resulting from survey results should be incorporated into the draft EIR. 4

CDFW also recommends restoration of the existing pond and repair of its failed berm as noted on page 3.4-1 of the environmental document, in addition to the terms of mitigation proposed in the Biological Resources section of the environmental document for California tiger salamander. 5

Alameda Whipsnake

Occurrences of Alameda whipsnake have been documented approximately 0.6 miles north from the Northern Site as noted in the Biological Resources section of the environmental document and suitable Alameda whipsnake habitat has been documented to occur within the boundaries of the Project site. Due to the high probability of Alameda whipsnake presence, it is highly recommended that additional species-focused or surveys be conducted to determine presence or absence throughout the Project site. CDFW recommends that when suitable habitat for a special-status species has been determined to be present within a Project site, then species-specific focused, and when available, protocol-level surveys should be conducted that employ the specific protocols developed and/or accepted by State and Federal Wildlife Agencies. Surveys should be conducted during the appropriate time of year for a given species to determine if the special-status species is present. These surveys must adhere specifically to the developed protocols and conduct the required follow up surveys in subsequent seasons to reinforce positive or negative findings. All final determination surveys should be conducted within one calendar year of Project initiation to be considered valid. CDFW survey and monitoring protocols and guidelines are available using the following: http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html. Results from these surveys should be used to determine the extent of impact to Alameda whipsnake and to develop additional avoidance, minimization and compensatory mitigation measures. Any additional measures resulting from survey results should be incorporated into the draft EIR. 6

Congdon's Tarplant and San Joaquin Spearscale

The Northern Site of the proposed Project will directly impact known populations of Congdon's tarplant (State Rank S2 or imperiled) and San Joaquin spearscale (State Rank S2, or 7

imperiled). The Southern Site of the Project has known occurrences of Congdon's tarplant, San Joaquin spearscale and Diablo helianthella (State Rank S2 or imperiled). Due to these known occurrences, it is recommended the Project conduct botanical surveys developed from the *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities*, dated November 2009 to determine the extent of impact to these populations and other populations of special-status vegetation over the entire Project site with a focus on areas of impact. The proponent has developed suitable mitigation measures in the Biological Resources section of the environmental document for the Northern Site of the Project. Due to the activities associated with the fire education facility proposed to be built in the Southern Site, CDFW highly recommends development of additional avoidance measures and incorporating those measures into the draft EIR. A fire education facility will have the potential to impact native plant species through excavation, grading, compacting and anthropogenic activities associated with the completed facility that is set to occur directly in the area of known special-status plant species occurrence. 7 CONT

The additional botanical surveys should be floristic in nature and must be timed appropriately; cover the entire area of direct and indirect effects, and may require multiple surveys in order to detect all species which could potentially be present as part of the California Environmental Quality Act (CEQA) impact analysis. Note the above referenced guidelines instruct the use of reference sites to confirm appropriate survey timing, particularly for seasonably variable, often difficult to detect species. To be considered as valid scientific results, the proponent should conduct the appropriate surveys within one year of Project initiation.

California Endangered Species Act

Please be advised that a California Endangered Species Act (CESA) Permit should be obtained if the project has the potential to result in take of species of plants or animals listed under CESA, either during construction or over the life of the project. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the project will impact CESA listed species, early consultation is encouraged, as significant modification to the project and mitigation measures may be required in order to obtain a CESA Permit. Threatened and endangered species that may be impacted by the implementation of this Project include; California tiger salamander (Threatened) and Alameda whipsnake (threatened). 8

Section 1600 Lake and Streambed Alteration Agreement

For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, CDFW may require a Lake and Streambed Alteration Agreement (LSAA), pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant. Issuance of an LSAA is subject to CEQA. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the project. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for completion of the agreement. To obtain information about the LSAA notification process, please access our website at https://www.wildlife.ca.gov/Conservation/LSA; or to request a notification package, contact the Bay Delta Regional Office at (707) 944-5500. 9

The proposed construction of the housing development will permanently impact intermittent streams, ephemeral streams, drainages, and swales associated with Alamo and Tassajara Creeks. To facilitate CDFW's review, it is recommended that the environmental document address the impacts of the project that may require an LSAA and provide a table of impacts to describe acreages and linear feet of impacts. CDFW recommends full avoidance of impacts to streams, drainages, ponds, and swales and further recommends incorporation of these streams, drainages, ponds, and swales of Alamo and Tassajara Creek into the new development as the preferred alternative. In areas where impacts to streams, drainages, ponds, swales and associated riparian areas cannot be avoided, then mitigation should be implemented at a minimum replacement ratio of 3:1 during restoration efforts. Page ES-26, Mitigation Measure BIO-3 recommends a replacement ratio of 2:1; CDFW recommends at minimum a 3:1 replacement ratio be included as a mitigation measure.

9 CONT

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CDFW also recommends further description of the Northern Site and Southern Site water features in the environmental document as to regulatory approvals required to cover Project activities. Pursuant to the activities covered in Section 1600 et seq. of the Fish and Game Code, CDFW would require notification for alterations to Tassajara Creek, Alamo Creek, the single drainage that runs east to west, the two southern drainage features of the north site and the shallow swale on the southern bound unless proven otherwise based on scientific data and valid surveys.

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If you have any questions, please contact Mr. Robert Stanley, Environmental Scientist, at (707) 944-5573; or Ms. Melissa Farinha, Senior Environmental Scientist (Supervisory), at (707) 944-5579.

Sincerely,

Scott Wilson
Regional Manager
Bay Delta Region

cc: State Clearinghouse

State Agencies

California Department of Fish and Wildlife (CDFW)

Response to CDFW-1

The commenter summarizes the Project. Note that proposed land uses on the Southern Site do not include a school facility use, and any future development on the 7-acre future potential fire district parcel would be subject to the proposed zoning of the site, ULL restrictions, and further County action in connection with a land use permit (which is a discretionary process, thereby triggering CEQA at such time as the Fire District determines to formally accept the offer of dedication and proceed with a specific development application for a land use permit). The Project does not have the "potential to permanently impact or alter 771 acres of land," rather, it would permanently preserve a total of 727 acres through dedication of these lands in fee to the EBPRD, which would also include approximately 175.4 acres of these lands on the Southern Site being subject to a Conservation Easement

Response to CDFW-2

Special-status plant surveys were conducted by M&A Biologists in 2012. These surveys were conducted to update the protocol level special-status plant surveys conducted by Sycamore in 2005 and 2006. The surveys followed CDFG (2009), CNPS (2001) and USFWS (2002) published survey guidelines. These guidelines state that special-status plant surveys should be conducted at the proper time of year when special-status and locally significant plants are both evident and identifiable. The guidelines also state that the surveys be floristic in nature with every plant observed identified to species, subspecies, or variety as necessary to determine their rarity status. Mitigation is presented in the revised Mitigation Measure BIO-1a which states the following: Additional rare plant surveys for special-status plants shall be conducted within the development envelope the year prior to breaking ground on the Project Site (i.e., the development footprint), in compliance with USFWS (1996 and 2002), CDFG (2009), and CNPS (2001) published rare plant survey guidelines.

Focused surveys for California red-legged frog were conducted in September 2005 and in March, April and May 2006 by Sycamore in accordance with the USFWS's *Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog* (USFWS 2005). In addition, a survey for the California tiger salamanders were conducted by Sycamore in 2006. The aquatic survey was conducted as described in the *Interim Guidance on Site Assessments and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander* (USFWS 2003). Since the presence of California tiger salamander and California red-legged frog is assumed and 3:1 mitigation for impacts will be provided, additional protocol surveys are not required or warranted for these species.

Sycamore conducted a San Joaquin kit fox habitat suitability survey in 2007 in accordance with the USFWS' *San Joaquin Kit Fox Survey Protocol for the Northern Range* (USFWS 1999). Mitigation Measure BIO-4 states that qualified Biologists will conduct preconstruction den surveys no more than 14 days prior to grading activities to ensure that potential kit fox dens are not disrupted.

Western burrowing owl surveys were conducted by EDAW in 2007 on the Project Site. EDAW conducted the focused breeding season surveys in accordance with the standardized survey

protocols (California Burrowing Owl Consortium 1997). Mitigation Measure BIO-5 states that breeding season surveys will be conducted by a qualified Biologist in accordance with the CDFW Staff Report (CDFG 2012) for western burrowing owl when Project construction is proposed to begin and again 14 days prior to breaking ground. In accordance with the 2012 Staff Report, four site surveys need to be completed.

Response to CDFW-3

No in-channel structures that would impede wildlife movement in Tassajara Creek are proposed as part of the Project. (Note that Alamo Creek does not traverse the Project Site.) Future open space, mitigation, recreational and other non-urban uses on the Northern and Southern Sites would not implement in-channel structures that would substantially impede wildlife movement. The connectivity of the proposed Mitigation Land to other dedicated open space areas further increases the value of this dedicated Mitigation Land since this creates a protected corridor that includes several watersheds. The culverted crossing in Tassajara Creek would remain and provide wildlife movement corridor. No additional culverts to provide wildlife passage is warranted for this Project.

Note that Camino Tassajara already acts as a significant barrier to overland migration coming south from adjoining Mount Diablo State Park lands. As discussed more fully in RDEIR, Section 3.4 (Biological Resources), implementation of the Project would not significantly increase or worsen this barrier. The Project would not interfere significantly with the movement of native wildlife, on a regional or local level and impacts would be less than significant. Therefore, under CEQA, no mitigation is required in this respect.

Response to CDFW-4

As indicated in Mitigation Measure BIO-1b of the Draft EIR, the applicant would be required to obtain an incidental take permit (ITP) from USFWs and CDFW prior to Project construction in accordance with all applicable laws and regulations. The applicant would also be required to comply with all other applicable conditions imposed on the ITP. Since the presence of California tiger salamander is assumed and 3:1 mitigation for impacts is provided, additional protocol surveys are not required.

Response to CDFW-5

Recommendation noted. The applicant would be required to implement all avoidance, minimization, and compensatory measures identified in the ITP. The stock pond that previously supported California tiger salamander larvae is no longer a viable habitat as natural erosion has removed the berm and the analysis determined that this area no longer ponds water for a sufficient period for successful California tiger salamander breeding. M&A determined that restoration of the pond on the Southern Site is not feasible because of erosion and sedimentation. Since the proposed Project would not result in any significant impacts to California tiger salamander breeding habitats, restoration of this former pond is not warranted. The Project provides 3:1 mitigation for impacts to California tiger salamander upland over-summering habitat.

Response to CDFW-6

The Residential Development Area and other areas that would be disturbed by the Project on the Northern Site do not provide “core habitat” for the Alameda whipsnake (i.e., there are no chaparral and coastal scrub communities within the Ground Disturbance Areas), and the closest core habitat is

located approximately 1.3 miles from the Project Site. While it is unlikely that the Project would result in significant impacts to the Alameda whipsnake, wildlife exclusion fencing installed to prevent snakes and other wildlife from entering the construction areas would also serve to help prevent impacts to this species.

The mitigation land that would be required to be set aside to mitigate Project impacts to California tiger salamander, California red-legged frog and San Joaquin kit fox would also provide appropriate mitigation for impacts to potential Alameda whipsnake dispersal habitat. In addition, the applicant would be required to comply with applicable laws and regulations regarding obtaining an ITP from USFWS prior to Project construction, and would implement any additional mitigation measures identified by USFWS as being necessary to protect the Alameda whipsnake. By ensuring that the applicant complies with applicable laws and regulations regarding obtaining "incidental take" authorization from the USFWS, this impact would be mitigated to a less than significant level.

Response to CDFW-7

Special-status plant surveys were conducted by M&A Biologists in 2012. These surveys were conducted to update the protocol level special-status plant surveys conducted by Sycamore in 2005 and 2006. The surveys followed CDFG (2009), CNPS (2001) and USFWS (2002) published survey guidelines. These guidelines state that special-status plant surveys should be conducted at the proper time of year when special-status and locally significant plants are both evident and identifiable. The guidelines also state that the surveys be floristic in nature with every plant observed identified to species, subspecies, or variety as necessary to determine their rarity status. Mitigation is presented in the revised Mitigation Measure BIO-1a, which states the following: Additional rare plant surveys for special-status plants shall be conducted within the development envelope the year prior to breaking ground on the Project Site (i.e., the Ground Disturbance Areas), in compliance with USFWS (1996 and 2002), CDFW (2009), and CNPS (2001) published rare plant survey guidelines. Mitigation Measure BIO-1 provides the mitigation measures that would be implemented to offset impacts to Congdon's tarplant and San Joaquin spearscale.

The commenter references the construction of a fire education facility on the Southern Site and its potential impacts. Note that no development of the Potential Future Fire District Parcel is proposed as part of the Project, and the SRVFPD has not formally indicated its intention to accept the 7-acre land dedication offer. It is not known whether SRVFPD will accept such offer of dedication, nor is it known what or when (if at all) any such potential future use(s) may be pursued. If SRVFPD accepts the offer and eventually seeks to pursue development of the Potential Future Fire District Area, that proposal would be required to comply with the County's ULL and related policies and also would be required to comply with all applicable environmental review mandates under CEQA (which would be triggered because the SRVFPD would be required to obtain a discretionary land use permit from the County). As such, any potential special-status plan species impacts resulting from any future development proposed on the Potential Future Fire District Parcel would undergo subsequent environmental review and applicable mitigation measures could be implemented at that time.

Response to CDFW-8

Three state listed threatened species, the San Joaquin kit fox, Alameda whipsnake and the California tiger salamander have potential to occur on the Project Site. California tiger salamander was

previously documented on the Southern Site. Consequently, the applicant would be required to comply with applicable laws and regulations regarding an ITP (2081 Agreement) being obtained from CDFW for potential impacts to California tiger salamander (Mitigation Measure BIO-2d). No direct take of San Joaquin kit fox or Alameda whipsnake are anticipated, and therefore these species would not be addressed in the 2081 Agreement.

Response to CDFW-9

A segment of Tassajara Creek crosses the eastern end of the Northern Site, immediately adjacent to Finley Road. A single drainage, shown as a blue-line stream on the USGS Tassajara quadrangle, flows from west to east along the northern boundary of the Northern Site and empties into Tassajara Creek on-site. The Project does not include any alterations to these drainage features. The Project previously included a potential Future Equestrian Staging Area located off Finley Road in the northeastern portion of the Northern Site that would have utilized the existing unpaved driveway that crosses Tassajara Creek, and the existing culvert would remain in place. No impacts to the creek channel, bed or banks, or associated riparian vegetation were anticipated. As noted above, since the release of the RDEIR, it has been determined that the equestrian staging area would no longer be included as a Project component. The Project does not require construction of an outfall structure into Tassajara Creek for stormwater discharge since the stormwater would be discharged into uplands below the retention basin, and allowed to sheet flow to the preserved drainage feature located along the southern boundary of the Northern Site. The only area of the shallow swale on the southern boundary of the Northern Site that would be impacted is a wetland area (W1). At proposed location of impact, this feature does not exhibit bed, bank and channel. Further, impacts to this wetland area would not "substantially divert or obstruct the natural flow of, or substantially change or use material from the bed, channel, or bank of, any river, stream, or lake . . ." Hence the Project would not result in impacts to CDFW jurisdictional areas, and, therefore, the applicant would not be required to enter into a Streambed Alteration Agreement (SBAA) with the CDFW. Nonetheless, at the time when permit applications to impact this wetland are submitted to the resource agencies, the applicant would be required to adhere to all applicable laws and regulations as they relate to construction including any consultation requirements with CDFW to determine if an SBAA is required. If the CDFW determines that an SBAA is required for this Project pursuant to applicable laws and regulations, any conditions stipulated in that authorization would be required to be implemented by the applicant.

As shown on Exhibit 3.4-8 in RDEIR Section 3.4, Biological Resources, the Project's potential impacts to the wetlands and waters of the U.S. located in the southern portion of the Northern Site are clearly illustrated and total impact square footage and acreage is provided in table format.

Response to CDFW-10

During the course of preparing the RDEIR, alternative Project configurations were considered to reduce impacts to wetland habitat. As indicated in the RDEIR, the No Project Alternative would not result in any impacts to wetland features, but would not meet any of the Project objectives. The Reduced Intensity Alternative would reduce wetland impacts from approximately 16,593 to 3,183 square feet. However, it was determined that complete avoidance of on-site wetland features within the 30-acre Residential Development Area would not be feasible because of their location along the Northern Site's southern boundary and the need to cross them to access the site from Camino Tassajara.

The proposed development plan indicates that the Project would result in impacts to approximately 16,593 square feet (0.37 acre) of waters of the U.S./State (see RDEIR Section 3.4, Biological Resources, Exhibit 3.4-8). Because full avoidance of these waters is not feasible, impacts to waters of the U.S./State would be regarded as significant. The applicant would be required to mitigate for proposed impacts to waters of the U.S. and State in accordance with applicable laws and regulations. Implementation of Mitigation Measure BIO-3 would reduce impacts to less than significant. At a minimum, all impacts to waters of the U.S./State would be compensated for via creation of new waters of the U.S./State at a minimum of 2:1 (creation to impact) ratio, or as otherwise specified in permitting conditions imposed by the USACE and RWQCB. The applicant proposes to create at least 0.80 acre of new wetland to mitigate for Project-related impacts to waters of the U.S./State.

Response to CDFW-11

As shown on Exhibit 3.4-8 of the Draft RDEIR, the Project's potential impacts to the wetland features located in the southern portion of the Northern Site are clearly illustrated and total impact square footage and acreage are provided in table format.

The Project does not propose any alterations to Tassajara Creek or Alamo Creek. Note that Alamo Creek is not located within the Project Site. The Project does not include actions that would impact the single drainage that runs west to east (along the northern boundary of the Northern Site).

There is no development currently proposed on the Southern Site; therefore, there is no potential for impacts to wetland features. Implementation of Mitigation Measure BIO-3 requires restoration of wetland areas on the Southern Site. Such actions would be undertaken in a beneficial manner and would avoid any additional wetland impacts. Any future development on the Future Potential Fire District Parcel would be subject to ULL regulations, land use permitting under the County's discretionary authority and related CEQA review, under which potential impacts to any wetland features, if present on-site, would be required to be addressed in accordance with applicable laws and regulations.

To ensure that impacts to waters of the U.S. and State are adequately offset, the applicant would be required to adhere to all applicable laws and regulations regarding obtaining a Section 404 permit from the USACE and a Section 401 permit from the RWQCB prior to Project construction and would be required to implement any additional mitigation measures identified by the USACE or RWQCB as part of these permits.

At the time when any such permit applications are submitted to the resource agencies, the applicant would be required to adhere to applicable laws and regulations as they relate to construction and would consult with CDFW to determine if an SBAA would be required. If the CDFW issues an SBAA for this impact, all conditions stipulated in that permit would also be required to be implemented by the applicant.

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ALTERNATE MEMBERS

Candace Andersen, *County Member*
Sharon Burke, *Public Member*
Tom Butt, *City Member*
Stanley Caldwell, *Special District Member*

July 18, 2016

John Oborne, Senior Planner
Department of Conservation & Development
Community Development Division
30 Muir Road
Martinez, California 94553

SUBJECT: Draft Environmental Impact Report (DEIR) for the Tassajara Parks Project

Dear John:

Thank you for sending the Contra Costa Local Agency Formation Commission (LAFCO) the Draft Environmental Impact Report (DEIR) for the Tassajara Parks Project.

Consistent with comment letters we have sent previously on this project in 2013 and 2014, we offer general and specific comments below.

General Comments

As a Responsible Agency pursuant to the California Environmental Quality Act (CEQA), LAFCO may need to rely on the County's environmental document in consideration of any future boundary change applications [e.g., annexation, sphere of influence (SOI) amendment] relating to this project. 1

LAFCO is an independent, regulatory agency with discretion to approve, wholly, partially or conditionally, or disapprove, changes of organization or reorganizations. In accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), LAFCO is required to consider a variety of factors when evaluating a proposal, including, but not limited to the proposal's potential impacts on agricultural land and open space, provision of municipal services and infrastructure to the project site, timely and available supply of water, fair share of regional housing, etc.

The factors relating to boundary and SOI changes are contained in Government Code sections 56668 and 56425, respectively. Including an assessment of these factors in the County's environmental document will facilitate LAFCO's review and the LAFCO process. Deficiencies

in the environmental document, as required by LAFCO, may result in the need for additional CEQA compliance work.

In LAFCO's July 2014 comment letter, in response to the issuance of the Notice of Preparation (NOP) for this EIR, we stated that the County's environmental document for future boundary changes should specifically:

1) reference the LAFCO action(s) in the Project Description (i.e., SOI amendment, annexation),

2) list LAFCO as one of Other Public Agencies Whose Approval is Required, and

3) Include in the environmental document an evaluation of the factors that are relevant to LAFCO in its future consideration of boundary changes that are necessary for the Project. As proposed, the Project will require SOI amendments and annexations to both a sewer district and a water agency; thus, the proposed boundary changes and the analysis of factors that LAFCO must consider should be specifically addressed in the EIR.

1 CONT

Also in our previous letter we included specific comments regarding Agricultural Resources, Water Supply, Wastewater, Fire Protection, and the Geologic Hazard Abatement District (GHAD).

Thank you for addressing in the DEIR the first two of the three points referenced above, along with our comments relating to wastewater and the GHAD. The comments below summarize issues that need to be addressed in the EIR in order for the EIR to be sufficient for LAFCO's purpose, and as a Responsible Agency under CEQA.

Specific Comments

A. Agricultural Resources

In LAFCO's July 1, 2014 comment letter, we made reference to the definitions of "Agricultural Lands" and "Prime Agricultural Lands" as set forth in the CKH Act (Gov. Code §§56016 and 56064), and requested that the DEIR evaluate whether the lands that would be converted to residential or other non-agricultural uses fall within these definitions, and if so, the EIR should include appropriate and feasible mitigation for the loss of such agricultural lands or prime agricultural lands.

2

The DEIR cites the criteria of Prime Agricultural Land, as set forth in the CKH Act; however, the DEIR does not include the criteria for Agricultural Land, as defined in the CKH Act (§56016). More importantly, the DEIR should provide an assessment as to whether the 30-acre portion of the overall Project Site that is proposed for conversion to non-agricultural use falls within the CKH definitions.

The soil characteristics and classifications described in the DEIR and illustrated in Exhibit 3-2.1 show that the proposed subdivision is "Agricultural Land of Local Importance." The DEIR states that "Both the Northern and Southern Sites have been used for various agricultural practices in the past, including grazing, orchards, and small areas of row crops.

The Northern Site currently has 12 decayed walnut trees in the southwestern corner of the site that were likely once part of small orchard."

The information presented in the DEIR suggests that most of the Northern Site, where the development is proposed, would likely qualify under the CKH definition of Prime Agricultural Land due to current grazing activity per Gov. Code §56064. The DEIR should include an assessment of the 30-acre development site based on the CKH Act criteria, as well as the criteria provided in Appendix G of the CEQA Guidelines, which don't consider loss of "Lands of Local Importance" as potentially significant. 2 CONT

Unless the analysis of impacts to agricultural lands is revised and broadened to include consideration of impacts under the CKH Act, with appropriate mitigation, the DEIR will not be sufficient as the environmental document on which LAFCO can rely, as a Responsible Agency, in acting on the Project's necessary SOI and boundary changes.

B. Water Supply

In LAFCO's July 2014 comment letter, we requested that if the Project is to rely on domestic water service from a public water agency, the EIR should specifically identify the agency and provide the information relevant to the topics listed under Gov. Code §56668 on which LAFCO determinations must be made, including §56668(l) which addresses the "Timely availability of water supplies adequate for projected needs as specified in Section 65352.5."

The DEIR and Project Water Supply Evaluation (WSE) identify two water supply sources to serve the Project: water supplied by the Calaveras Public Utility District (CPUD) through a long-term agreement with the East Bay Municipal Utility District (EBMUD), or existing potable water supplies through the expansion of recycled water. 3

EBMUD will first need to determine that the Project is consistent with the District's policies relating to annexation and SOI amendments (i.e., policies 3.01, 3.05, 3.07, 3.08 and 9.03), and with the *Municipal Utility District Act, Public Utilities Code §11501 et. seq.*, chapters Chapter 9, 10, and 11.

Ultimately, LAFCO will require a will serve letter from EBMUD confirming the District's ability and willingness to serve the Project.

C. Wastewater Service

Information provided as part of the NOP stated that wastewater services would be provided to the Project by the Central Contra Costa Sanitary District (CCCSD), upon the Project site's annexation to CCCSD. The July 2014 LAFCO comment letter noted that the Project site is currently outside of the CCCSD's SOI and outside of the CCCSD service area boundary, and that approvals for an SOI amendment and service area boundary change will be required from LAFCO with regard to sewer service. 4

The DEIR estimates the demand for wastewater service, along with capacity and concludes that the current level of unused wastewater treatment capacity at CCCSD's treatment plant in

Martinez is more than sufficient to accept wastewater flows from the Project without requiring any increase or substantial change in its operation.

Ultimately, LAFCO will require a will serve letter from CCCSD confirming the District's ability and willingness to serve the Project. 4 CONT

D. Other Public Services

In consideration of boundary change proposals, LAFCO must take into account the effect of proposed boundary changes on the level and adequacy of public services as follows: "*The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas. 'Services,' as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.*" [Gov. Code §56668(b)].

Regarding the provision of other public services, we offer the following comments.

Fire Protection 5

In LAFCO's July 2016 comment letter, we noted that the Project site is within the service area of the San Ramon Valley Fire Protection District (SRVFPD) and therefore no boundary change would be required regarding this service. The comment letter also requested that the EIR include an assessment of the demand for fire protection services relating to the proposed additional housing units, an indication of the fire district's ability to provide service to the Project area, and an assessment of impacts to the fire district's service levels and its ability to maintain service to its existing customers.

The discussion in the Draft EIR beginning on Page 3.11-11 regarding these issues is mostly responsive to our NOP comment letter. However, we think the DEIR should include additional clarification in response to the following:

a) The reference on p. 3.11-2 to Response Times Goals #1, #2 and #3 should identify whose goals these are, i.e., the County, SRVFPD's or some other agency's goals;

b) The EIR should include a breakdown of how fire response times are calculated (similar to the description under Law Enforcement – Response Times). 6

c) LAFCO's recently released *Public Review Draft Fire/Emergency Medical Services (EMS) Municipal Service Review (MSR)* makes reference to LAFCO's inaugural EMS/Fire MSR (2009) which indicated that fire agencies in Contra Costa County were unable to meet national and state guidelines for fire response times 90% of the time. The 2016 EMS/Fire MSR finds that the prior failure to meet response time goals has not changed, and that performance has worsened for certain districts. 7

> Typical EMS and fire services are based on two fundamentally different activities: fire suppression and emergency medical response. Each of these activities requires distinct training and equipment in order to be performed adequately. Depending on the nature of the incident, emergency medical response can often be provided adequately by two fully trained personnel equipped with specialized support equipment. Fire suppression service requires a much more complex and coordinated personnel and equipment-intensive response. While additional or improved ambulance service can augment or supplant EMS provided by fire service agencies, that is not the case for fire suppression activities. Those activities remain dependent on adequate personnel and equipment responding within reasonable timeframes to be effective.

7 CONT

The Tassajara Parks Project could exacerbate the current situation, which would suggest the need for appropriate mitigation to augment the Fire District's ability to meet service level goals without adversely affecting service levels on existing residents.

Law Enforcement

The response times by the County Sheriff in the vicinity of the Project area are lengthy and far exceed the County's General Plan Policy 7-59. The Tassajara Parks Project could exacerbate the current situation which would suggest appropriate mitigation should be required to address this issue and assure an adequate level of service for a Project that would expand the Sheriff's service area.

8

Schools

The DEIR notes that enrollment levels at the elementary and high schools in the Project area are currently at capacity, and that the middle school in the area currently exceeds capacity. The Tassajara Parks Project would likely exacerbate the current situation. The DEIR should address enrollment impacts in greater detail and determine whether impacts would be fully mitigated through the payment of the school impact fees; and if not, should identify additional mitigation that would fully address expected service level impacts.

9

Thank you for the opportunity to comment. We look forward to seeing the County's responses to the above comments.

Sincerely,

Lou Ann Texeira
Executive Officer

c: LAFCO Planner

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Local Agencies

Contra Costa Local Agency Formation Commission (CCLAFCO)

Response to CCLAFCO-1
LAFCO's role as a responsible agency is acknowledged. The RDEIR Project Description was revised to include reference to the specific actions that LAFCO would need to take if the Project is to move forward (RDEIR Section 2, Project Description, p. 2-42).

Response to CCLAFCO-2
Agricultural Lands are defined by the Cortese-Knox-Hertzberg (CKH) Act (§ 56016) as land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program. This definition is included in RDEIR Section 3.2, Agricultural Resources, on page 3.2-9. The RDEIR also includes an evaluation of prime agricultural lands as defined in Section 56064 of the Government Code (RDEIR Section 3.2, Agricultural Resources, p. 3.2-13). Please also refer to RDEIR Response to Comment DAN-46, which provides additional support for the conclusion that the Project Site does not contain any land which meets this definition.

Response to CCLAFCO-3
As noted in the RDEIR, the recycled water option is no longer being pursued. The RDEIR evaluated the CPUD option as well as an off-site conservation option. Subsequent to the release of the RDEIR, the applicant has also withdrawn the CPUD option from further consideration. Please refer to Master Response 1: Water Supply and Distribution.

The timely availability of water supplies adequate for projected needs as specified in Section 65352.5 of the CKH Act is addressed in RDEIR Section 3.13, Utilities and Service Systems. See also Master Response 1: Water Supply and Distribution.

The commenter states that EBMUD will need to determine that the Project is consistent with the District's policies related to annexation and SOI amendments. The County agrees with this position; that is, that the EBMUD Board has the ultimate discretion to make the consistency determination. Refer to RDEIR Section 3.9, Land Use, Population, and Housing, Impact LU-4, which demonstrates the Project's consistency with the EBMUD SOI amendment policies. Please also refer to Response to EBMUD-2 to EBMUD-4; Master Response 1: Water Supply and Distribution.

The commenter also states that CCLAFCO will require a will serve letter from EBMUD confirming its ability and willingness to serve the Project. The comment is noted. Impact Analysis LU-4 of the RDEIR (Section 3.9, Land Use, Population, and Housing, p. 3.9-37), requires the implementation of a Mitigation Measure USS-1, which would ensure that the applicant demonstrate the provision of adequate water supply via a can and will serve letter from EBMUD, before the final map can be recorded.

Response to CCLAFCO-4
The RDEIR lists the required LAFCO approvals in Section 2, Project Description, subsection 2.6.3 (page 2-42). This requirement is also recognized in Section 3.13, Utilities and Service Systems, of the RDEIR.

The commenter also states that CCLAFCO will require a will serve letter from CCCSD confirming its ability and willingness to serve the Project. The comment is noted.

Response to CCLAFCO-5
Table 3.11-2, Response Times, located in the RDEIR Section 3.11, Public Services and Recreation, p. 3.11-2, includes an updated footnote identifying that the goals were taken from the SRVFPD Comprehensive Annual Financial Report.

Response to CCLAFCO-6
Response times were derived from the SRVFPD Comprehensive Annual Financial Report, which does not define how the fire response times are calculated. It is assumed that these times originate at time of call and end at first-on-scene, which matches the methodology used in the SRVFPD's Standards of Cover document. But please also note that Station 36 is located across Camino Tassajara from the Project Site.

Response to CCLAFCO-7
The potential for the Project to incrementally affect the current response times for emergency providers is recognized in the RDEIR, although Station 36 is located across Camino Tassajara from the Project Site. As noted above, the RDEIR includes additional clarification in the Notes for Table 3.11-2 (Public Services and Recreation) related to response times for emergency providers. The RDEIR confirms that the payment of standard applicable development impact fees would be imposed as a condition of approval, and the RDEIR concludes that impacts would be less than significant, and no mitigation is required.

Response to CCLAFCO-8
The potential for the Project to incrementally effect the current response times is recognized in the RDEIR. The RDEIR includes additional text related to response times for law enforcement for purposes of clarification (see RDEIR Section 3.11, Public Services and Recreation, page 3.11-13). Ultimately, the payment of applicable development impact fees would be imposed as a condition of approval, and the RDEIR concludes that impacts would be less than significant, and no mitigation is required. The General Plan policy regarding response times is a goal, not a mandatory, objective standard.

Response to CCLAFCO-9
The RDEIR evaluated the Project's potential impacts on schools, and confirmed there would be less than significant impacts (RDEIR Section 3.11, Public Services and Recreation, p. 3.11-14). Consistent with SB 50, the ability to require mitigation of school facility impacts as a condition of approval is limited. The RDEIR includes additional references to fees that could be leveled under SB 50 to offset potential effects of increasing enrollment (RDEIR Section 3.11, Public Services and Recreation, p. 3.11-7) for purposes of further clarification. Please also note that, as shown in Table 3.11-7, School Enrollment and Student Generation Summary, Tassajara Hills Elementary was not at capacity at the time of evaluation, nor would it be following Project implementation as a result of the Project.

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Protecting public health and the environment
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CONTRA COSTA COUNTY
2016 JUN -2 A 8:05
DEPARTMENT OF CONSERVATION AND DEVELOPMENT

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COMMENTS ON THE TASSARA PARKS PROJECT DRAFT ENVIRONMENTAL IMPACT REPORT; GP07-0009, RZ09-3212, SD10-9280, DP10-3008; CAMINO TASSAJARA, UNINCORPORATED CONTRA COSTA COUNTY; APN NO.220-100-023, 206-030-065,223-020-018, 223-020-021; WS 35; MAPS 101E6-E7

Dear Mr. Oborne:

I am responding to your agency's Draft EIR with regard to Central Contra Costa Sanitary District's (CCCSD) jurisdiction and ability to provide wastewater utility service to the Tassajara Parks Project, if developed. The following information should be taken into consideration.

1. Page 3.13-12, Paragraph 3, Line 4: In 2015, CCCSD's treatment plant treated approximately 27.8 million gallons of wastewater per day (mgd) calculated on an Average Dry Weather Flow (ADWF) basis. This is the calculation used to compare with the treatment plant's 53.8 mgd effluent discharge limit. 1

2. Page 3.13-36, Paragraph 1, Lines 3-4: As noted above, the CCCSD's treatment plant treated approximately 27.8 million gallons of wastewater per day (mgd) calculated on an ADWF basis. Given the 53.8 mgd ADWF effluent discharge limit, approximately 26.0 mgd ADWF currently is available for new development. CCCSD expects to have sufficient capacity to accommodate new development for the next several decades.

3. Page 3.13-36, Paragraph 2, Lines 1-6: The wastewater impact calculation is overly conservative, since the water demand estimate includes irrigation water that does not get discharged to the sanitary sewer system. Using the Appendix J (p. 2-5) indoor residential water use factor of 0.18 acre-feet per year (afy) per single-family detached home, 125 homes would have an indoor water use of 22.5 afy. This converts to 20,087 gallons per day or 0.02 mgd. This is half of what the Draft EIR projects, so the Draft EIR's conclusions are still valid. 2

If you any questions regarding these comments, please contact me at 925-229-7255.

Sincerely,

Russell B. Leavitt
Engineering Assistant III

RBL/sdh

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Central Contra Costa Sanitary District (CCCSD)

Response to CCCSD-1

The RDEIR indicated an average of approximately 45 mgd of treated wastewater, resulting in an available capacity of 8.8 mgd. Using the commenter's provided figure (27.8 mgd Average Dry Weather Flows [ADWF]), approximately 26 mgd ADWF would be available for new development. As such, the RDEIR understated CCCSD's available treatment capacity. The commenter stated that CCCSD expects to have sufficient capacity to accommodate new development for the next several decades. The RDEIR used a conservative approach to calculate wastewater capacity availability, and no further response is needed.

Response to CCCSD-2

The commenter stated that the Draft EIR's conclusions regarding wastewater are still valid. Comment noted, and no further response is needed.

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April 10, 2013

John Oborne
Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553-4601

RE: DP10-3008 and SD 928 (Proposed 771 acre development – New Little Farm)
APN- Not provided

Dear Mr. Oborne:

The Contra Costa Environmental Health Division (CCEHD) has received a request for agency comments for the above referenced project. The following are our comments:

1. A permit from CCEHD is required for any well or soil boring prior to commencing drilling activities, including those associated with environmental investigation and cleanup, and geotechnical investigation. 1

2. Any abandoned wells (water, environmental, or geotechnical) and septic tanks must be destroyed under permit from CCEHD. If the existence of such wells or septic tanks are known in advance or discovered during construction or other activities, these should be clearly marked, kept secure, and destroyed pursuant to CCEHD requirements. 2

3. Public sewer is the recommended means of wastewater disposal for the project. If onsite septic systems are used, the septic systems, including disposal field replacement area, must meet current standards. Larger on-site or community disposal system may require a permit from the Regional Water Quality Control Board. 3

4. A public water system is the recommended means of providing water for the project. If onsite wells are used, it must be demonstrated that each lot has a water supply well meeting current standards, including construction, yield, water quality, and setbacks. 4

5. A health permit is required for retail food facilities and public swimming pool/spas. Food facilities include restaurants, stores, bars, cafeterias, snack bars, kiosks at transit sites, and any business or operation that sells or gives food away to the public (including employees or students). Public swimming pools/spas include those found at health clubs, municipal pools, apartments, condominiums, and swim clubs; these facilities also include water parks, spray parks, and interactive water features. 5

Plans must be submitted to CCEHD and approved prior to the issuance of building permits for such facilities. Prior to the submission of plans, CCEHD staff is available to meet with prospective developers/operators to discuss the requirements for these facilities and the plan review process. 5 CONT

6. Dumpster areas serving retail food facilities are required to have a drain to the sanitary sewer and provided with a hot/cold water supply. It is recommended that developers be informed of this requirement, since it is usually easier to plan for the installation of sewer and water in dumpster areas during initial construction rather than install these afterwards. 6

7. All retail food and swimming pool/spa facilities must have approved restrooms. This includes kiosks located at transit sites. It is recommended that developers be informed of this requirement, since it is usually easier to plan for the installation of restrooms during initial construction rather than install these afterwards. 7

8. The worship center would be exempt from the requirements to have plans approved by Contra Costa Environmental Health and operate under a health permit if it is not used for any retail use, which would include the following:

   - Providing school lunches.
   - Operating a homeless or senior feeding program.
   - Catering.
   - Events open to the general public where food is sold or given away.

   If the future use of the kitchen includes any activity considered retail in nature, a health permit will be required prior to commencing such an activity. In this case a plan review would be required as part of the application process. Any required upgrades to the kitchen and associated facilities (e.g., dumpster area, restrooms, janitorial area) would need to be completed before the issuance of a health permit 8

These comments do not limit an applicant's obligation to comply with all applicable laws and regulations. If you should have any questions, please do not hesitate to call me at (925) 692-2535. 9

Sincerely,

Joseph G. Doser, REHS
Supervising Environmental Health Specialist

cc: Marilyn C. Underwood, Director of Environmental Health
Ed Diaz, Environmental Health Specialist II

JGD:tf

Contra Costa Environmental Health Division (CCEHD)

Response to CCEHD-1
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to CCEHD-2
As indicated in RDEIR Section 3.7, Hazardous Materials (page 3.7-13), any on-site wells and septic tanks that would be disturbed by the Project would be removed, consistent with applicable Contra Costa County and state laws and regulations, including CCEHD permitting and related requirements.

Response to CCEHD-3
As proposed, the Project would be served by the Contra Costa County Sanitary District (with CCCSD's concurrence and upon LAFCO approval of annexation and related SOI amendment) and therefore would not include the use of septic systems.

Response to CCEHD-4
As proposed, the Project's water needs would be served by the East Bay Municipal Utility District (EBMUD)—subject to the EBMUD Board's approval of a water supply agreement and LAFCO's approval of annexation and the related SOI amendment—and therefore would not include the use of on-site wells. Please see Master Response 1: Water Supply and Distribution or the "Source 2—Off-Site Water Conservation" section of the RDEIR Section 3.13, Utilities and Service Systems, on page 3.13-7 for further discussion of water supply.

Response to CCEHD-5
The Project does not include retail food facilities or public swimming pools/spas.

Response to CCEHD-6
See Response to CCEHD-5.

Response to CCEHD-7
See Response to CCEHD-5.

Response to CCEHD-8
The Project does not include a worship center.

Response to CCEHD-9
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. No response is necessary.

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DANVILLE

"Small Town Atmosphere
Outstanding Quality of Life"

July 18, 2016

John Oborne, Senior Planner
Contra Costa County
Department of Conservation & Development
39 Muir Road
Martinez, CA 94553
Email: john.oborne@dcd.cccounty.us

RE: Town of Danville's comments on the Draft EIR for the Tassajara Parks Project
County File Numbers GP07-0009, RZ09-3212, SD10-9280, DP10-3008

Dear Mr. Oborne:

On behalf of the Town of Danville, we submit these comments regarding the County's Draft Environmental Impact Report (EIR) for the Tassajara Parks Project. The Town has carefully reviewed the Draft EIR, as have the Town's outside counsel, Remy Moose Manley, LLP. The Town is concerned about the Project's environmental impacts, especially transportation and traffic impacts, because of the proximity of the project's residential development portion to the Town. We provide the following comments to alert the County to:

(1) the ways in which the proposal to extend the Urban Limit Line is inconsistent with the County's own policies, the requirements in County Code Section 82-1.018, and the express will of the voters; 1

(2) the Draft EIR's numerous violations of the California Environmental Quality Act (Public Resources Code, § 21000 et seq.) (CEQA);

(3) how the Project violates the Planning and Zoning Law (Gov. Code, § 65000 et seq.) because the proposed single-family, high-density residential land uses in the Northern Site are incompatible with the General Plan; and

(4) why the Project's inconsistency with the County's General Plan violates the Subdivision Map Act (Gov. Code, § 66410 et seq.).

We have also included several attachments to support our comments. Although the Town appreciates the information and analysis that is included in the Draft EIR, the Town asks the County to make revisions that address the defects identified in this letter. 1 CONT

The efforts to characterize the project as development that can properly evade the voters' scrutiny of the proposed change to the County's Urban Limit Line (ULL) subverts the intent behind relevant policies in the County's General Plan and adopted ordinances. First, contrary to the intent behind the adoption of the ULL, the project does not meet inclusionary housing requirements, opting to pay in-lieu fees instead of providing affordable housing on the Project site. Second, the Draft EIR appears to improperly rely on a yet-to-be-created preservation agreement that is designed to provide the Board with a flimsy justification for approving the extension of the ULL for urban development under County Code Section 82-1.018(a)(3). Third, the Draft EIR draws an arbitrary distinction between the project's urban and non-urban land uses, claiming that the portions of the project area that are required for: (i) road dedication to widen Camino Tassajara (limited to that portion of dedication in direct proximity to the proposed development zone); (ii) frontage buffer landscape improvements directly behind this proposed new right-of-way boundary; (iii) the project's detention basin and pumping station; (iv) the proposed debris bench at the base of the proposed engineered slopes that would protect the proposed residential project; and (v) slide repair area are somehow "non-urban" land uses despite their express purpose of serving the project's 125 single-family residences. 2 3 4

These contortions also result in a legally insufficient Draft EIR. As explained in more detail below, the Draft EIR contains: (i) an unstable and incomplete project description; (ii) an inaccurate and misleading description of the project baseline and setting; (iii) inadequate analysis and mitigation of project-specific environmental impacts, including significant and unavoidable greenhouse gas emissions and traffic impacts; (iv) an erroneous understanding of the legal requirements related to analysis of cumulative impacts; (v) a refusal to analyze an alternative in an offsite location; (vi) a failure to sufficiently consider and discuss growth-inducing impacts that result from the project's two potential water sources; and (vii) an improperly cursory analysis of energy conservation impacts. 5

I. **The Tassajara Parks project is inconsistent with the intent of the Urban Limit Line because it would extend urbanization into agricultural lands without providing any onsite affordable housing.** 6

A. The voter-approved intent behind the establishment of the Urban Limit Line

In 1990, the Contra Costa County voters approved Measure C, which enacted the 65/35 Contra Costa County Land Preservation Plan Ordinance ("65/35 Ordinance"). The purpose of the measure was to preserve agriculture and open space land, parks, wetlands, and other nonurban uses and manage growth to protect the quality of life, while also providing for the County's fair share of safe and affordable housing. Measure C accomplished this, in part, by establishing the County's Urban Limit Line, a line beyond which no urban land use can be designated. Measure C also limited urban development to no more than 35 percent of the land in the County and required that at least 65 percent be preserved for agriculture, open space, wetlands, parks, and other non-urban uses.

In California, a general plan serves as the "constitution" to which all future development must carefully adhere.[1] During the process of preparing a comprehensive update to the County's General Plan, the voters expressed concern over the growing "urbanization of the County" and the threat that further development poses to "the long term viability of agricultural and open space land, parks, wetlands, hillsides and ridgelines."[2] At the same time, voters recognized "a critical need to make decent, safe and affordable housing available to all . . . economic segments of the County."[3] Measure C was specifically designed to address both of these concerns. Thus, the voters' approval of Measure C signified their broad support for a general plan with strict preservation principles that could only be sidestepped in order to ensure the adequate development of affordable housing.

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CONT

B. The intent behind the provision for "minor" or less than 30-acre adjustments to the Urban Limit Line

The County's concerned residents did not stop with Measure C, which was set to expire in 2010. In 2004, voters approved Measure J, which withheld sales tax proceeds for local transportation purposes unless the County and cities mutually agreed to reestablish the

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[1] / *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540.

[2] / Attachment 4, p. 1-26 [Contra Costa General Plan, Chapter 1, Section 1.11, Measure C-1990, Section 3(B)(1)].

[3] / Attachment 4, p. 1-26 [Measure C, Section 3(B)(3)].

ULL. Measure J also required that the renewal of the ULL include new provisions for periodic review and for "minor (less than 30 acres) nonconsecutive adjustments."[4]

In July 2005, the County Board of Supervisors approved a version of the Urban Limit Line ballot measure that represented a compromise between the environmental and business communities. The staff report detailing this compromise makes clear that future adjustments to the ULL should only be allowed if there is evidence that the proposed project is necessary to meet the area's projected housing or job needs and is placed in a location that can take advantage of planned transportation improvements:

> **WITH RESPECT TO URBAN LIMIT LINE PLACEMENT TO BE PRESENTED TO THE VOTERS IN 2006, there will be no changes [to] the recently adjusted ULL for a minimum of ten years and then, changes would be allowed** ***only if it is shown that there is not a 20 year housing supply available in the County as per criteria set forth below.***
>
> . . .
>
> The purposes of the ULL are: (l) to ensure *preservation and protection* of identified nonurban land, including agricultural, open space, parkland, and other areas, by establishing a line beyond which urban uses generally cannot be designated; (2) to *link land use decisions with the transportation investments in Measure J* by channeling future growth to locations more suitable for urban development; (3) to ensure that land use policies within the ULL effectively *promote appropriate development that accommodates the area's projected housing and job needs* over a 20-year period.[5]

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CONT

The principles expressed in this compromise were ratified in 2006 when the voters overwhelmingly approved Measure L, which extended the 65/35 Ordinance until 2026. In compliance with the mandate in Measure J, Measure L added to the ordinance a provision requiring that any change to the ULL greater than 30 acres obtain both a 4/5 vote of the County Board of Supervisors and voter approval. If, however, a project is

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[4] / Attachment 5, p. 29[CCTA's Measure J, Contra Costa's Transportation Sales Tax Expenditure Plan, Attachment A- "Principles of Agreement for Establishing the Urban Limit Line"].)

[5] / Attachment 6, p. 8 [July 12, 2015 staff report on ballot measure for extension of the Urban Limit Line], italics added.)

less than 30 acres, it must still be approved by 4/5 of the Board of Supervisors subject to certain findings. Thus, under the existing version of the 63/35 Ordinance, any change to the ULL, whether less than or greater than 30 acres, must be approved by a 4/5 vote of the Board of Supervisors after making one of seven findings[6]; but only changes greater than 30 acres require voter approval.[7]

Measure L also required a comprehensive review of the Urban Limit Line in 2016 to determine whether there is sufficient land available to satisfy housing and jobs needs for Contra Costa County for the following 20 years.[8] This requirement for a comprehensive review, which now appears in County Ordinance 82-1.018(d), is necessary to "determine whether a change to the boundary . . . is warranted, based on facts and circumstances resulting from . . . a comprehensive review of the *availability of land* in Contra Costa County sufficient *to meet housing and job needs for twenty years.*"[9]

C. An example of the appropriate use of the 30-acre exception to voter approval: the Bay Point Waterfront Project

6 CONT

The relevant requirements related to changes to the ULL are now enshrined in County Ordinance Section 82-1.018. It is instructive to briefly review the one project that has been approved using the 30-acre exception to the requirement for voter approval of changes to the ULL.

In 2009, the Board of Supervisors approved the Bay Point Waterfront project, which consisted of a new full-scale marina, open spaces, recreational playfields, trails, and up to 450 multi-family residential units.[10] The Bay Point Waterfront Project moved approximately 21 acres of undeveloped open space and commercial recreation lands *inside* the ULL in exchange for moving 22 acres of regional parkland outside the ULL. The change to the ULL was possible because the Board adopted the finding in Section

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[6] / Compare Attachment 4, pp. 1-27 to 1-28 [Measure C, Section 4(B)(7)] to County Ordinance 82-1.018.

[7] / The only way to circumvent voter approval, when required, is if 4/5 of the Board finds it is necessary to avoid an unconstitutional taking of private property or to comply with state or federal law.

[8] / Attachment 7, p. 12 [Measure L Voter Pamphlet].)

[9] / County Ordinance 82-1.032(d), italics added; see Attachment 3.

[10] / Attachment 8, p. 4 [November 3, 2009 staff report on Bay Point Waterfront General Plan Amendment and Development Plan Modification].)

82-1.018(a)(4): that the change would more accurately reflect topographical characteristics or legal boundaries.[11]

The residential component of the project involved placing 450 multi-family residential units on 17 acres of land that was previously designated Open Space. Importantly, as commended in the Board's Findings, the Bay Point Waterfront Project provided for 15% of the 450 residential units to be affordable housing. In contrast, as discussed in more detail below, the Tassajara Parks project will provide no onsite affordable housing and effectively converts more than 30 acres of agricultural lands to residential land uses.

6 CONT

D. The Tassajara Parks project's inappropriate proposal to change the Urban Limit Line

Voters have repeatedly shown their commitment to preserving agriculture and open space by approving the creation and extension of the ULL and, most recently, by *strengthening* the previous ULL provisions to require voter approval for projects outside the ULL that are over 30 acres. The Tassajara Parks project's proposal to change the Urban Limit Line violates the intent behind the adoption of the ULL in three important ways: (1) the project extends urbanization into agricultural lands without evidence showing that there is not currently a 20-year housing supply in the County; (2) it improperly attempts to take advantage of the 30-acre exception to voter approval by characterizing as "non-urban" land uses that only have the purpose of serving the project's urban, residential development; and (3) it does not provide any onsite affordable housing.

7

First, the Tassajara Parks project proposes to permanently convert agricultural lands to residential, urban uses. But the Draft EIR does not point to any evidence that the County currently lacks a 20-year housing supply, or that such necessary development could not be accommodated through more appropriate development *within* the existing Urban Limit Line. Thus, the project conflicts with the intent of the voter-approved 2006 Measure L. At the very least, the Board should delay its consideration of the project until after the comprehensive 2016 review of the ULL boundary is completed and the County possesses more information about the "availability of land . . . sufficient to meet housing and job needs for twenty years."[12]

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[11] / Attachment 8, p. 11.

[12] / County Ordinance 82-1.032(d).

Second, the project is not eligible for the 30-acre exception to voter approval because the true extent of the project's urban development is approximately 50 acres, not 30 acres. In other words, the project proposes to use approximately 50 acres to house or directly support 125 single-family residential units. Although the Draft EIR claims that only 30-acres will be used for "urban" development, the Town challenges the Draft EIR's characterization of the "Non-Urban Development Area." (DEIR, pp. 2-25 to 2-29.) The area needed to widen Camino Tassajara and to provide corresponding buffer landscape improvements, detention basin, sewer pump station, and necessary grading operations all serve and support the project's 125 residential units.[13] These project elements are not rural residential or agricultural structures, and, thus, cannot be characterized as "nonurban uses."[14] They should instead be counted toward the total acreage of urban development because their only purpose is to serve the proposed residential units. Frankly, the Draft EIR's insistence that these uses can be excluded from the total acreage proposed for inclusion in the ULL is disingenuous.

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CONT

Third, the project completely fails to provide any onsite affordable housing. Without any discussion, the Draft EIR states that "the Project would pay in-lieu fees in place of providing inclusionary housing units as part of the project."[15] The Draft EIR provides no explanation for why a certain percentage of the proposed residential units couldn't be offered as affordable housing. Recently constructed residential developments in the vicinity of the project, whether within the Town limits or in the unincorporated area east of the Town boundary, have provided, at a minimum, 15% of the residential units as housing affordable to moderate income households. When the County approved the

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[13] / See Draft EIR, p. 2-28 [explaining grading operations and landslide grading operations], pp. 2-49 & 3.13-35 [describing pump station as necessary for and owned and operated by residential development's Homeowners Association], pp. 3.8-10 & 3.13-37 [explaining how the 7.6-acre detention basin is necessary to attenuate the stormwater flows in the residential area]. The Draft EIR is misleading when it states that the Residential Development Area encompasses all of the "Project's urban development" because the 30 acres only covers lots and interior project roadways, not all related urban improvements. (Draft EIR, p. 2-25.)

[14] / County Ordinance 82-1.032(b) states: "the term "nonurban uses" shall mean rural residential and agricultural structures allowed by applicable zoning and facilities for public purposes, whether privately or publicly funded or operated, which are necessary or desirable for the public health, safety or welfare or by state or federal law."

[15] / Draft EIR, p. 3.9-33.

Bay Point Waterfront project, it found that the provision for 15% of the 450 units to be affordable would help to implement the housing-related goals in the General Plan.

Without a similar provision here, the project fails to support or implement relevant housing policies in the County General Plan and would be inconsistent with the stated purpose and intent of the County's Inclusionary Housing Ordinance, which reads:

> 822-4.204 Purpose and Intent. The purpose of this chapter is to facilitate the development and availability of housing affordable to a broad range of households with varying income levels within the County. It is intended in part to implement State policy declaring that local governments have a responsibility to exercise their powers to facilitate the development of housing necessary to adequately provide for the housing needs of all economic segment of the community. The goal of this chapter is to ensure that affordable housing units are added to the County's housing stock in proportion to the increase in new housing units in the County, in accordance with Goal 3 of the Housing Element of the County General Plan.

7 CONT

It appears that the in-lieu fee option laid out in the County's Inclusionary Housing Ordinance (see Section 822-4.404 In-Lieu Fee) is meant to have the developer burden of providing the requisite affordable units be the same whether the units are supplied in the project or through the payment of an in-lieu fee. The regulations direct that the fee amount for for-sale units is to be equivalent to the cost differential between the affordable sales price for a targeted household and the median price, as determined by the County, of all single-family home sales in the County within the previous 12 months. It is unclear what the process has been that lead to a determination that the project would pay in-lieu fees rather than provide affordable housing as part of the project.

E. Reliance upon the finding in Section 82-1.018(a)(3) would be improper.

Even if the project could overcome the defects identified above, any reliance upon the finding in Section 82-1.018(a)(3) would be improper and unsupported by substantial evidence.

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The Draft EIR ambiguously states that the "Project would include a 30-acre change to the ULL, as allowed by Chapter 82-1.018(a)(3) of the Contra Costa County Ordinance

Code."[16] Section 82-1.018(a)(3) provides that the County may approve a change to the Urban Limit Line if it can make a finding "based on substantial evidence in the record" that a "majority of the cities that are party to a preservation agreement and the county have approved a change to the urban limit line affecting all or any portion of the land covered by the preservation agreement." While the Town is aware that the County and the project applicant have been drafting a potential preservation agreement, the Draft EIR does not provide any details about any relevant existing preservation agreements or any soon-to-be-executed agreements.

The entire purpose of a preservation agreement is to prevent cities from annexing unincorporated portions of the County so that agricultural lands, open space, wetlands, or parks may be preserved.[17] The Project's Northern Site is geographically related to the Town of Danville, and is located within the Town of Danville's planning area as described in the Danville 2030 General Plan. Therefore the Town of Danville would be one of the cities that would be expected to be a party to a preservation agreement. At the present time, the Town of Danville is not a party to an existing preservation agreement that covers the Project's Northern Site, the entire project site, or lands beyond the project site, and it would be unfair and illogical for the County and another city to enter into a preservation agreement that covers lands within the Town's planning area, absent the Town being a party to such agreement.

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CONT

Any future preservation agreement should cover all of the lands that currently comprise the entire project site. If the preservation agreement does not cover the Northern Site, then the Board cannot rely upon the finding in subdivision (a)(3) because the proposed change to the ULL must affect "all or any portion of the land covered by the preservation agreement."

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[16] / Draft EIR, p. 3.9-32.

[17] / The Land Use Element of the General Plan includes Policy 3-u, which states that the County should pursue preservation agreements that are "designed to preserve land for agriculture, open space, wetlands or parks." (Attachment 4, p. 3-39 [Contra Costa General Plan, Chapter 3- Land Use Element].) Elsewhere, the Land Use Element explains that the purpose of non-urban preservation agreements is "to prevent annexation by cities of certain appropriate properties." (*Id.* at p. 3-9.)

II. The Draft EIR does not comply with CEQA.

A. The Draft EIR fails to provide an adequate project description.

Under CEQA, an "accurate and stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) An adequate description of all parts of a project are necessary if an EIR is to serve its informational purpose. If important elements are omitted, then "some important ramifications of the proposed project" may remain "hidden from view at the time the project [is] being discussed and approved." (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 830.)

Here, the Draft EIR's informational purpose is undermined by the many uncertain project elements. First, the Draft EIR provides a misleading description of the residential development area in the Northern Site. According to the Draft EIR, all of the project's "urban development" would occur within the 30-acre Residential Development Area. (DEIR, p. 2-25.) As noted above, this characterization is incorrect and solely designed to allow the project to evade the requirement to obtain voter approval. Table 2-2 (Summary of Ground Disturbance Areas) separates the 30 acres of the Residential Development Area from the 23.71 acres of "Non-Urban Development Area" on the theory that the listed uses are "nonurban uses" as defined by County Ordinance 82-1.032. (DEIR, p. 2- 27.) But the detention basin, sewer pump station, project grading areas, and landslide grading areas are not "rural residential and agricultural structures" that would qualify as nonurban uses. (DEIR, pp. 2-27 to 2-28.) Rather, all of these project elements exist solely to serve the Project's 125 residential units.

9

The Town asks that the Project Description be revised to clearly explain that all of the following components would be included in the project's Residential Development Area:

Sub Area	Acreage	Source for Area Calculation
"Footprint" of the proposed 125 Residential Lots	22.5	Estimated from Exhibit 2-6 – Residential Site Plan
"Footprint" of the proposed Internal Project Roadways	7.5	Estimated from Exhibit 2-6 – Residential Site Plan
Area to be offered in dedication to the County and to receive frontage improvements, road widening and landscape improvements for Camino Tassajara	3.0	Parcel "F" on Exhibit 2-7 - Development Plan
Project Detention Basin	3.0	Parcels "A" and "H" on Exhibit 2-7 - Development Plan
Disturbed Area - Grading Improvements	7.0	Exhibit 2-13 - Grading Impact Areas
Disturbed Area - Remedial Grading	16.0	Exhibit 2-13 - Grading Impact Areas
Offsite parking lot improvements for Tassajara Hills Elementary School	0.7	Exhibit 2-13 - Grading Impact Areas
Totals	59.7 /30 acres	*NOTE: Total acreage is approximately 200% larger than the cited 30 acre "Residential Development Area"*

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CONT

Additionally, the following parcels (and assumed parcels) appear to have been left out of the tabulation of the subdivision/vesting tentative map application requests:

Parcel or Anticipated Parcel	Size (Acres)	Purpose of Lot or Parcel
Parcel "A"	0.02	Assumed to relate to utility improvements associated with project
Parcel "D"	0.09	Provides project connection from "D" Street to abutting debris bench and "Disturbed Area – Remedial Grading"
Parcel "K"	0.19	Provides project connection from "D" Street to abutting debris bench and "Disturbed Area (Grading/Improvements)"

Second, as noted above, the Draft EIR fails to provide any details about the preservation agreement that the County intends to rely upon to make a finding under Section 82-1.018(a)(3). (See DEIR, p. 3.9-32.) The Draft EIR does not explain if there is an existing preservation agreement, does not identify which cities are or will be party to the preservation agreement, and does not include an exhibit of the land to be covered by the preservation agreement. The preservation agreement must be part of the project because it is one of the "approvals" that will be necessary for the project to proceed. The preservation agreement should have been listed along with the other discretionary approvals in the Draft EIR's project description. (See DEIR, pp. 2-1 to 2-2.) The vague reference to the County Code does not tell the public anything about that discretionary action or the factors and parties involved in considering it. 10

Third, the Draft EIR is unclear about the following items:

1. The total area of ground disturbance: It appears that certain project elements, including the Future Equestrian Staging Area, are still in flux. Consequently, the Draft EIR makes unsupported assumptions and fails to accurately identify the total acreage that will be disturbed under the project. (See DEIR, pp. 2-25, 2-36.) 11

2. The method for conveyance of preservation areas: The Draft EIR states that the "applicant proposes to convey almost all of the Southern Site . . . to the East Bay Regional Park District (EBRPD) by fee simple transfer and/or other appropriate legal mechanism, subject to a conservation easement on a portion of the Southern Preservation Area that would also need to be acceptable to the applicable resource agencies." (DEIR, p. 2-26 [similar statement with regards to the Pedestrian Staging Area and the Future Equestrian Staging Area].) There are too many uncertainties in this statement. Has EBRPD agreed to this proposal? What kind of legal mechanism will be used? What are the terms of the conservation easement? Have the applicable resource agencies approved these terms? Would EBRPD agree to take on the responsibilities imposed by mitigation measures in the EIR, such as MM BIO-3 (DEIR, p. 3.4-75). Given past experience, it is doubtful that the EBRPD would be willing to assume the risk of slope failure occurring and damaging surrounding properties. (See DEIR, p. 3.1-17.) 12

3. Annexation of the Northern Site into Wendt Ranch Geologic Hazard Assessment District (GHAD): The Draft EIR states that the "applicant proposes that the entire Northern Site be annexed into an existing . . . (GHAD) . . . for the purpose 13

of appropriately addressing geological hazards as permitted under GHAD law." (DEIR, p. 2-26.) The Draft EIR assumes that the GHAD would "assume specified responsibilities" and provide for "funding of monitoring and maintenance of biotic resources, as required and consistent with the Plan of Control." (DEIR, pp. 2-41 to 2-42.) It is unclear what biological resources the Draft EIR assumes a GHAD, which is designed to address geologic hazards, would be responsible for monitoring. (DEIR, pp. 3.9-10 to 3.9-11.)

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4. Future uses on the potential future fire district parcel: The Draft EIR admits that "while the Project applicant has contingently offered to convey the Potential Future Fire District Parcel, it is not known whether [the San Ramon Valley Fire Protection District (SRVFPD)] will accept such offer of dedication, nor is it known what or when (if at all) any such potential future use(s) may be pursued." (DEIR, p. 2-42.) The Draft EIR mentions a Contingent Offer of Land Dedication, but it does not include a copy of this offer or any other written evidence that clarifies this potential arrangement. (DEIR, p. 2-27.)

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5. LAFCO approval of annexation of Residential Development Area and Pedestrian Staging Area into service area of East Bay Municipal Water District (EBMUD): The Draft EIR explains that the "applicant is expected to request annexation of the Residential Development Area (as well as the adjacent Pedestrian Staging Area) into the service area of EBMUD." (DEIR, p. 2-44.) Such annexation requires approval from both EBMUD and LAFCO. The Draft EIR also states that the Pedestrian Staging Area could only include approximately 21 parking spaces and a restroom facility and water fountain if "LAFCO approval of the inclusion of this portion of the Project Site into the annexation proposal" is obtained. (DEIR, p. 2-36.) The Draft EIR does not explain when EBMUD and LAFCO approval would be obtained. It does not adequately explain what factors will be used by LAFCO to determine if the inclusion is appropriate. (DEIR, p. 3.9-34.)

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Fourth, the Draft EIR presents two different potential sources of water supply for the project: (a) "a long-term agreement to purchase water from the Calaveras Public Utility District," or (b) "the augmenting of EBMUD's potable water availability by expanding recycled water use in lieu of existing potable water use within EBMUD's service area by an amount sufficient to offset the Project's water demand." (DEIR, p. 2-49.) According to the Draft EIR, the applicant "would request that EBMUD play a role (subject to the EBMUD Board's discretion) in implementing this flexible water strategy." (DEIR, p. 2-

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44.) While the Town can understand the appeal of pursuing a flexible water strategy, the Draft EIR's reliance on two such different water supply options is problematic. The Draft EIR does not explain what factors will be considered to make a final decision between these two choices, one of which would involve the construction of 1.8 miles of pipeline within the right-of-way of San Ramon Valley Boulevard from Alcosta Boulevard to Montevideo Avenue. (DEIR, p. 2-49.) In addition, while Appendix J, Exhibit 1 to the DEIR refers to a "Term Sheet between CPUD and Project Proponent," that exhibit is not included. 16 CONT

B. The Draft EIR's description of the project baseline and setting is misleading and incomplete.

CEQA requires an EIR to "delineate environmental conditions prevailing absent the project, defining a 'baseline' against which predicted effects can be described and quantified." (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 447.) An EIR "must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published . . . from both a local and regional perspective." (CEQA Guidelines, § 15125, subd. (a).)[18] "If the description of the environmental setting of the project site and surrounding area is inaccurate, incomplete, or misleading, the EIR does not comply with CEQA." (*Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 87.) In this instance, the Draft EIR's "description and consideration" of the project baseline and setting is so incomplete and misleading that it fails to meet the standard set forth in Section 15125. 17

First, the Draft EIR claims that the project site is "semi-flat" (p. 2-25). This is misleading. Based on Exhibit 2-6, it appears that between 2.5 and 5 acres of the 30-acre Residential Development Area to be occupied by lots and roadways have existing slopes in the 15-30 percent horizontal-to-vertical slope gradient. (DEIR, p. 2-19.) Another five to 7.5 acres is estimated to have existing slopes in the 30-40 percent horizontal-to-vertical slope gradient. It is typical to include a slope gradient map as a project exhibit to show existing slope gradients, both for the area to be occupied by roads and lots and for the area of anticipated corrective soils and geotechnical work. (See General Plan Policies 9-14, 9-22, 9-24.) General Plan Policy 10-24 states, in part, "Development on very steep open hillsides and significant ridgelines throughout the County shall be restricted, and 18

[18] / CEQA Guidelines, Cal. Code Regs., tit. 14, § 15000 et seq.

hillsides with a grade of 26 percent or greater shall be protected through implementing zoning measures and other appropriate actions." To correctly evaluate the project's conformance to general plan policies, the Draft EIR should indicate how much of the site, inclusive of area described on Exhibit 2-13 as "Disturbed Area (Grading/Improvements), has an existing slope gradient of 26 percent or greater. 18 CONT

Figure 2 (Site Plan) from Appendix E should be included in the Draft EIR's Project Description section text. Figure 2 indicates that half a dozen earth flows are in direct contact with, or overlap with, the proposed residential lots in the project. One of these earthflows is identified as a deep-seated earth slump/flow. That deep-seated slide occupies more than six acres, with its "footprint" overlapping all or portions of proposed Lots 34-39 and Lots 51-59. More than half of the horizontal footprint of the slide has an existing slope gradient in excess of 20 percent. The topmost reaches of the slide, as well as the area extending up to the top of the ridge above the mapped location of the slide, has an existing slope gradient of over 40 percent. The hinge point at the point the slide transitions from the lower, flatter area of the slide to the upper portion of the slide; and the area above the mapped top of the slide scales to a vertical rise of approximately 80 feet across a horizontal distance of approximately 200 feet. Recently completed Google Earth oblique aerial mapping appears to readily indicate the presence of a related slide that is not indicated on Figure 2—a slide that is located above and slightly east of the centerline of the deep-seated slide and that appears to extend to the ridge. It may be that this omitted slide occurred after the 2005 site-specific landslide evaluation that was part of the ENGEO geotechnical feasibility study. Please see the Town's more complete comments on Geotechnical and Grading Concerns in Attachment 2. The fact that the project site has several "explored landslides . . . found to be at least 30 to 40 feet thick" should not be buried in Appendix E of the DEIR. (See Draft EIR, Appendix E- ENGEO Preliminary Geotechnical Report, p. 3.) 19

Second, the Draft EIR provides a misleading description of the mature California black walnut trees that will be removed as part of the project despite being identified as protected trees under the County Code. (DEIR, p. 3.4-43.) Apart from indicating that they are "greater than 6.5 inches in diameter," the Project Description section provides very little information about the 10 mature walnut trees in the southwest corner of the Northern Site. (DEIR, pp. 2-34 to 2-35.) Elsewhere, the Draft EIR discloses that these walnut trees are remnants of a historic orchard dating back to the 1950s. (DEIR, pp. 3.2-4 [part of orchard dating back to 1958-1968], 3.5-11 [orchard present in archival photos from 1946].) Appendix C of the Draft EIR explains that the average diameter of the single-trunked walnut trees is 32 inches and that several of the trees have multiple 20

trunks. (Appendix C, pp. 137, 150-151 ["Tree Assessment" table].) And Appendix C indicates that nine of the walnut trees are in "fair" condition, which means that they are trees "with moderate vigor . . . [and] moderate structural defects that might be mitigated with regular care." (Appendix C, pp. 136-137.) Yet, the Draft EIR dismisses these walnut trees as not being "in good condition" because of the "decay" present. (DEIR, p. 3.4-43.) This characterization is directly contradicted by Appendix C, which reports that at least two of the California black walnuts to be removed are moderately suited for preservation. (Appendix C, pp. 143, 150-151 [trees # 28 and 29 marked for removal and having "moderate" suitability for preservation].) Please revise the Project Description to include a fuller and more accurate discussion of the California black walnut trees to be removed during grading for the residential units. 20 CONT

C. The Draft EIR improperly relies upon project design elements that should be included as enforceable mitigation measures.

In *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658, the court held that the EIR in that case failed to comply with CEQA in its evaluation of the project's impact on old growth redwood roots adjacent to the roadway. Caltrans had incorporated mitigation measures into its project description and concluded that any potential impacts would be less than significant. "By compressing the analysis of impacts and mitigation measures into a single issue," the court stated, "the EIR disregards the requirements of CEQA."

Here, the Draft EIR improperly relies upon project design elements instead of including these measures as enforceable mitigation measures. For example, the Draft EIR explains that the "landslide grading area" incorporates "recommended measures into the Project design to address geotechnical issues as recommended by the geotechnical engineer." (DEIR, p. 2-28.) Appendix E provides eight pages of recommendations that ENGEO indicated "should be incorporated in the design and construction of the project." (Appendix E, pp. 11-19.) It is unclear if the project design incorporates all of these recommendations. And there are no mitigation measures in the Geology, Soils, and Seismicity section that specifically include or reference these eight pages of recommendations. (DEIR, pp. 3.6-12 to 3.6-17 [MM GEO-1 simply requires applicant to submit a design-level geotechnical investigation to the County for review and approval].) 21

Similarly, the Draft EIR improperly assumes that a GHAD will be formed and that a Plan of Control will be implemented to address geologic hazards related to the location 22

of the project on "an unstable geologic unit or soil." (DEIR, pp. 3.6-15 to 3.6-17.) The Draft EIR states that with "the implementation of MM GEO-1 *and the GHAD*, impacts related to potentially unstable geologic conditions would be reduced to less than significant." (DEIR, p. 3.6-17, italics added.) In other words, the Draft EIR based its conclusion that Impact GEO-3 is less than significant partly on the assumed future establishment of a GHAD. But this assumption is not supported by substantial evidence because the formation of a GHAD is not required by an enforceable mitigation measure. Although the Project applicant might earnestly "anticipate establishing a GHAD," the applicant's anticipation cannot be equated with an enforceable mitigation measure. (DEIR, p. 3.6-16.) 22 CONT

These are just two examples. Please review the entire Draft EIR and consider if there are other elements of the project design or other unsupported assumptions that properly should be transformed into enforceable mitigation measures.

D. The Draft EIR fails to adequately analyze and mitigate the project's potentially significant environmental impacts.

CEQA requires an EIR to provide "a sufficient degree of analysis" about a proposed project's adverse environmental impacts to inform the public and allow decisionmakers to make intelligent judgments. (CEQA Guidelines, § 15151.) An EIR must demonstrate a good faith effort at full disclosure. As explained below, additional analysis and mitigation are necessary for the Draft EIR here to comply with CEQA.

1) Transportation and Traffic:

The Draft EIR concludes that the project will result in four different significant and unavoidable transportation and traffic impacts: 23

- Impact TRANS-1 ("unacceptable traffic operations under Existing Plus Project conditions") (pp. 3.12-34 to 3.12-44);
- Impact TRANS-2 ("unacceptable traffic operations under Near-Term Plus Project conditions") (pp. 3.12-44 to 3.12-57);
- Impact TRANS-3 ("unacceptable traffic operations under Cumulative Plus Project conditions") (pp. 3.12-57 to 3.12-68) ; and
- Impact TRANS-5 ("conflict with an applicable congestion management program's level of service standards established by the County congestion management agency for designated roads or highways") (pp. 3.12-76 to 3.12-81).

CEQA requires the County to consider all feasible mitigation measures and alternatives that may help avoid or lessen these significant and unavoidable impacts. But the Draft EIR fails to do this.

The California Supreme Court has "explained that [an agency's] duty to mitigate extend[s] beyond the boundaries of the [project]." (*City of San Diego v. Board of Trustees of California State University* (2015) 61 Cal.4th 945, 957.) This is because "CEQA requires a public agency to mitigate or avoid its projects' significant effects not just on the agency's own property but '*on the environment*' (Pub. Resources Code, § 21002.1, subd. (b), italics added), with 'environment' defined for these purposes as 'the physical conditions which exist *within the area which will be affected by a proposed project*.' (*id.*, § 21060.5, italics added)." (*City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, 360.) Here, the area that will be affected by the project includes the Town of Danville.

Please review and respond to the attached technical comments from the Town's expert traffic consultant. (Attachment 1 [Peer Review of Tassajara Parks Traffic Impact Study].) Among other concerns, the traffic peer review concludes that: (a) the Draft EIR's Traffic Impact Study uses parameters that do not match the Town of Danville's signal timing plans at many intersections; (b) multimodal LOS analysis was not but should be conducted at least at intersections with high pedestrian/bike volumes; (c) school PM peak analysis was not but should be conducted at intersections next to schools; (d) several mitigation measures related to signal timing improvements overestimate the benefits of signal timing and should be revisited; (e) there is insufficient information about the nearest transit stop on Route 35; (f) select link analylsis using more accurate assumptions about the project and surrounding land uses run by the Town's consultant shows significantly different trip generation patterns than those used in the Draft EIR's study; and (g) traffic circulation analysis for the schools within the project study area were not but should be analyzed.

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Additionally, the Town notes that the design of the landscape buffer between road widening improvements for Camino Tassajara and project lots is inadequate when compared to the depth of perimeter landscape buffers provided directly south of the project site or west of the project site, which typically ranged from 40 to 50 feet in width. The buffered setback should match the depth of the widest buffer provided in proximate projects – not be the narrowest.

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2) Air Quality/ GHG Emissions:

The Draft EIR concludes that Impact AIR-6 ("generate direct and indirect greenhouse gas emissions that would result in a significant impact on the environment") is significant and unavoidable. (DEIR, p. 3.3-65.) With regard to the remaining Air Quality/ Greenhouse Gas Emissions (GHG) impacts, two are less than significant and would not require mitigation, while four are less than significant with mitigation. (DEIR, pp. ES-7 to ES-9.) There are numerous defects in the Draft EIR's analysis of these impacts.

First, the Draft EIR's reliance upon the Bay Area Air Quality Management District's (BAAQMD's) adopted thresholds of significance is problematic. (DEIR, pp. 3.3-36 to 3.3-37, 3.3-61 to 3.3-65.) Table 3.3-5 and Table 3.3-27 both indicate that the BAAQMD threshold for operational GHG emission impacts is 4.6 $MTCO_2e$ per service population per year (SP/yr). But the Draft EIR does not explain if this threshold is tied to 2020 goals in Assembly Bill (AB) 32, the 2006 Global Warming Solutions Act. Since the project's lifespan is assumed to be 30 years (DEIR, p. 3.3-64) and construction wouldn't be complete until 2020 (DEIR, p. 2-50), the Draft EIR must use significance thresholds for operational GHG emission impacts that are tied to relevant 2050 goals. For example, Executive Order S-3-05 calls for the reduction of GHG emissions to 80 percent below 1990 levels by 2050. This 2050 goal represents the level scientists believe is necessary to reach climate-stabilizing levels. And Executive Order B-30-15 establishes a mid-term GHG reduction target for California of 40 percent below 1990 levels by 2030. If the BAAQMD's recommended operation threshold of 4.6 $MTCO_2e$/SP/yr does not take into account the more recent 2030 and 2050 goals, then the Draft EIR needs to consider using a different or additional significance threshold. 25

Second, the analysis of Impact AIR-6 suffers from other deficiencies. Noting that BAAQMD does not have a construction-related GHG generation threshold, the Draft EIR provides a calculation of the total construction emissions (1,281 $MTCO_2e$) without any additional analysis to help the public and decisionmakers to determine if this amount of emissions is significant. (DEIR, pp. 3.3-62 to 3.3.-63.) Additionally, MM AIR-6 is weak. Why is on-site generation of renewable energy, such as solar, only required to meet 10 percent of the Project's total energy demand? Why not 25 percent or 40 percent or 100 percent? Why doesn't the Draft EIR discuss and require the purchase of carbon credits or other potentially feasible mitigation measures? The Draft EIR cannot hide behind a significant and unavoidable impact conclusion to avoid considering all potentially feasible mitigation. 26

Third, the analysis of Impact AIR-1 ("conflict or obstruct implementation of the applicable air quality plan") is inaccurate. (DEIR, pp. 3.3-38 to 3.3- 40.) The Draft EIR concludes that the project is consistent with applicable criterion in BAAQMD's 2010 Clean Air Plan. But the project is inconsistent with Criterion 1 ("support the primary goals") because the significant and unavoidable GHG emissions impact (Impact AIR-6) cannot reasonably be interpreted as supporting the air quality plan's primary goal of reducing GHG emissions and protecting the environment. (DEIR, p. 3.3-38.) The Project is also inconsistent with Criterion 2 ("include applicable control measures"). (DEIR, pp. 3.3-38 to 3.3-39.) One of the 2010 Clean Air Plan's control measures is "ECM 2-Renewable Energy," which consists of two components: "1) promote incorporation of renewable energy sources into new developments and redevelopment projects, and 2) foster innovative renewable energy projects through provision of incentives." (See BAAQMD's Clean Air Plan, Vol. II, p. E-6, available at http://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/Plans/2010%20Clean%20Air%20Plan/CAP%20Volume%20II_Sections%20A-F.ashx (last visited June 30, 2016).) The 2010 Clean Air Plan explains that one of the primary approaches to increasing renewable energy is to "replace grid-tied electricity with 100% renewable electricity produced through distributed generation such as solar panels, micro wind turbines, or onsite cogeneration." (*Ibid.*) The Draft EIR points to the project's provision of 10 percent on-site renewable energy generation and the fact that PG&E's power mix comes from 19 percent renewable sources as evidence that the project is consistent with this control measure. But this is unconvincing evidence. The project would need to require a much higher percentage of onsite renewable energy in order to honor measure ECM-2. 27

Fourth, the analysis of operational "CO hotspot" impacts associated with traffic congestion under Impact AIR-2 is incorrect. (DEIR, pp. 3.3-41 to 3.3-42.) The Draft EIR indicates that the project must be "consistent with an applicable congestion management program" among other criteria. The Draft EIR concludes that the project is consistent with the Contra Costa Transportation Agency's (CCTA's) Congestion Management Plan (CMP). But the Draft EIR reveals that three freeway segments would "operate below standards under Cumulative Conditions," and the addition of the project would result in LOS F. In spite of this, the Draft EIR claims that the project is consistent with the CMP because the Traffic Impact Study "identified mitigation measures to reduce Project impacts on these CMP routes." (DEIR, p. 3.3-42.) What the analysis of Impact AIR-2 fails to consider is that for Impact TRANS-3 the Draft EIR concluded that "the project would result in significant unavoidable impacts to freeway segments even after the implementation of mitigation" under the Cumulative Plus 28

Project conditions. (DEIR, p. 3.12-67.) It is unclear how significant and unavoidable impacts resulting in traffic congestion that contributes to a CO hotspot on these freeway segments can be found to be consistent with the CMP. 28 CONT

Fifth, the Draft EIR improperly relies on MM AIR-3 to support a less than significant conclusion for Impact AIR-3 ("potential to result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is in nonattainment"). (DEIR, pp. 3.3-43 to 3.3-54.) MM AIR-3 states: "Off-road diesel-powered construction equipment greater than 50 horsepower shall meet United States Environmental Protection Agency Tier 4 off-road emissions standards *to the extent feasible.*" (DEIR, p. 3.3-54, italics added.) Without further explanation, the use of the phrase "to the extent feasible" here renders the entire mitigation measure vague and unenforceable. Who gets to decide if it is feasible? What are the criteria for deciding feasibility? The Draft EIR needs to explain if the calculations in Tables 3.3-11 through 3.3-15 (mitigated construction emissions) assume that 100 percent of the off-road diesel-powered construction equipment greater than 50 horsepower would meet Tier 4 standards. Such an assumption would not be supported by substantial evidence because compliance with MM AIR-3 and its "to the extent feasible" clause could result in much less than 100 percent of the equipment meeting Tier 4 standards. 29

Sixth, the analysis of Impact AIR-4 ("potential to expose sensitive receptors to substantial pollutant concentrations") is deficient. The project's residential area is located just 133 feet away from Tassajara Hills Elementary School and just 175 feet away from residences on Kingswood Drive. The Draft EIR downplays the potential impacts from use of heavy diesel equipment by stating that the preparation phase "would only occur over a brief duration (estimated to require approximately 173 working days)." One hundred and seventy-three working days this close to an elementary school and residences does not appear to be a "brief" duration. Please also explain if the calculations in Table 3.3-23 (Construction Health Risk Assessment Summary with Mitigation) assume that 100 percent of the off-road diesel-powered construction equipment greater than 50 horsepower would meet Tier 4 standards. (DEIR, p. 3.3-57 [relying on the implementation of MM AIR-3]; see also DEIR, Appendix B, p. 75 [Appendix C -Health Risk Assessment Screening].) And please consider evaluating the potential risk of Valley Fever, which may affect sensitive receptors even if MM AIR-2 is able to lessen impacts from construction fugitive dust. 30

Finally, the analysis of Impact AIR-7 ("conflict with any applicable plan, policy or regulation of an agency adopted to reduce the emissions of greenhouse gases") is 31

incorrect. (DEIR, pp. 3.3-65 to 3.3-70.) The Draft EIR concludes that the project is consistent with the Contra Costa County Climate Action Plan's applicable measures. (DEIR, pp. 3.3-66 to 3.3-67.) Measure LUT 4 states: "New residential and nonresidential development will be located within one half-mile of a BART or Amtrak station, or within one quarter-mile of a bus station." (DEIR, p. 3.3-67.) The Draft EIR admits that the project is "not currently served by transit," meaning that the residential development area is not located within one-half-mile of a BART or Amtrak station, or within one-quarter-mile of a bus station. Yet, the Draft EIR assumes that the project is consistent with the Climate Action Plan because it "increases development density in the area, increasing the feasibility of providing service on Tassajara Road in the future." This conclusion is unsupported by the substantial evidence and must be revised.

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3) Land Use, Population, and Housing:

The Draft EIR's discussion of the Urban Limit Line is misleading and incomplete. (DEIR, p. 3.9-4.) Please see comments above regarding the voters' intent behind the establishment of the ULL and the intent behind the 30-acre exception to voter approval. The Draft EIR should be revised to present a more complete picture of the ULL issue, including acknowledging the importance of providing affordable housing. As noted above, please provide more details about the intended use of the preservation agreement finding in Section 82-1.018(a)(3). (DEIR, p. 3.9-32.)

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The Town also notes that the project would not qualify for the finding under Section 82-1.018(a)(4) for a "minor change to reflect topographical characteristics or legal boundaries." The existing ULL boundary (which was described at the time as representing the "Watershed and Ridge Line boundary") accurately represents the topographical characteristics in that portion of the Northern Site so a finding under subsection (a)(4) would not be justified.)

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The Draft EIR concludes that Impact LU-1 ("would not conflict with any applicable provisions of the Contra Costa County General Plan adopted for the purposes of avoiding or mitigating an environmental effect") is less than significant. But this conclusion is not supported by substantial evidence. The project is inconsistent with Policy 3-7 because the project will result in significant unavoidable traffic impacts; it is inconsistent with Policy 3-9 because the project prematurely extends development into undeveloped areas outside the ULL before utilizing vacant and under-utilized sites within urban areas; it is inconsistent with Policy 3-10 because the project extends growth-inducing infrastructure into agricultural areas outside the ULL; and it is

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inconsistent with Policy 3-11 because the project conflicts with existing agricultural uses. (DEIR, pp. 3.9-28 to 3.9-29.) Also, the project's small average lot size is not consistent with the development to the west of the project and is not aligned with the County's policy directive to go to lower density development at the outer edges of development. 34 CONT

The Draft EIR concludes that Impact LU-2 ("would not conflict with any applicable provision of the Contra Costa County Ordinance Code adopted for the purpose of avoiding or mitigating an environmental effect") is less than significant, in part, because the "Project would pay in-lieu fees in place of providing inclusionary housing units as part of the Project." (DEIR, pp. 3.9-30 to 3.9-33.) As noted above, the Draft EIR improperly dismisses the provision of onsite affordable housing without any discussion or analysis. The strategy of paying in-lieu fees is inconsistent with the purpose behind the 30-acre exception to voter approval of changes to the ULL. 35

In the analysis of Impact LU-3 ("would not conflict with any applicable Local Agency Formation Commission policies adopted for the purposes of avoiding or mitigating an environmental effect"), the Draft EIR assumes that the Contra Costa LAFCO will approve the extension of EBMUD utility service to the Residential Development Area. (DEIR, pp. 3.9-34 to 3.9-35.) Please provide more information about the process and criteria that would be used by the Contra Costa LAFCO. Why is it reasonable to assume that approval will be granted? 36

In the analysis of Impact LU-4 ("may conflict with any applicable East Bay Municipal Utility District annexation policies adopted for the purposes of avoiding or mitigating an environmental effect"), the Draft EIR concludes that the project is consistent with all applicable policies. (DEIR, pp. 3.9-35 to 3.9-39.) But the project is not consistent with Policy 3.01 because it is outside the Ultimate Service Boundary (USB). And Table 3.9-7's explanations of the project's consistency with exceptions to Policy 3.01 are unconvincing: (i) 30 acres is not a small boundary adjustment; (ii) the project's residential area is not the smaller part of a larger project located primarily within the USB; and (iii) there is no support for the conclusion that EBMUD is the logical provider of water service. (DEIR, pp. 3.9-36 to 3.9-37.) 37

4) Aesthetics, Light, and Glare:

The Draft EIR's conclusion that Impact AES-2 ("would not substantially degrade the existing visual character or quality of the site and its surroundings") is less than 38

significant is unsupported. (See DEIR, p. 3.1-18 to 3.1-23.) The project involves changing more than 30 acres of agricultural/ open space lands outside the ULL to residential uses. Additionally, the project will result in the installation of a 250-foot-long and 4-foot-tall wall along Camino Tassajara. (DEIR, p. 3.1-18.) But the Draft EIR improperly reasons that these changes "would not substantially degrade the visual quality of the Project Site" because they are so small when compared to the great number of acres that will be preserved by the Project. (DEIR, p. 3.1-23.) The visual simulation of the Project in Exhibit 3.1-2 demonstrates clearly that the construction of 125 new residential units will result in a significant change to the existing visual character of the project site. In addition, the visual simulation provided does not account for the likelihood that the slide corrective work above proposed lots 32-40 will result in steep engineered slopes with drainage benches extending up to the ridgeline above these lots – scarring the existing topographic conditions that will likely be visible above the perimeter architectural wall and the proposed residences that would back up to Camino Tassajara. The aesthetic impact of the new residential development is not somehow canceled out or negated just because the project also proposes to preserve other portions of the project site at a location some distance away from the residential development. And, contrary to what the Draft EIR implies, the aesthetic impact of new residential development is not automatically reduced to less than significant levels because there are existing residences nearby.

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The project is inconsistent with the following General Plan Goals that are related to aesthetics: LU3.8-3-A ("protection of agriculture and open space"), 9-B ("conserve the open space and natural resources of the County through control of the direction, extent and timing of urban growth"), 9-9 ("preserve open space lands located outside the Urban Limit Line"; "County shall not designate any open space land located outside the ULL for an urban use"), and 9-15 ("projects shall be designed to minimize damages to significant trees and other visual landmarks"). (DEIR, pp. 3.1-3 to 3.1-4.) The project will convert agriculture and open space outside the ULL to residential uses, and it will remove several mature California black walnut trees that are protected by the County's tree ordinance. Please consider these inconsistencies when reevaluating the project's aesthetic impacts.

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5) Agricultural Resources:

The Draft EIR discloses that the project would change 30 acres of Farmland of Local Importance to residential use, rezoning from Agricultural Land to P-1, Planned Unit

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District. (DEIR, p. 3.2-11.) Yet the Draft EIR concludes that Impact AG-2 ("would not conflict with existing zoning for agricultural use, or a Williamson Act contract") is less than significant. (DEIR, pp. 3.2-12 to 3.2-13.) This conclusion appears to be based on circular reasoning: the project will be consistent once approved because the project requires approval of rezoning. Please revise to correct this deficiency. 40 CONT

6) Biological Resources:

As noted above, the Draft EIR provides a misleading description of the Northern California black walnut trees that will be removed by the project. The Draft EIR explains that there are only three extant native populations and only one viable native occurrence of the California black walnut as of 2003. (DEIR, p. 3.4-14.) And the Draft EIR goes on to explain that planted or naturalized California black walnut, such as the ones on the project site, threaten native stands and "have no special status." (DEIR, p. 3.4-19.) This is confusing because even the native black walnut trees do not have federal or state status. (DEIR, p. 3.4-14.) Why is the Draft EIR trying to disparage planted or naturalized California black walnut? The Draft EIR should acknowledge in this discussion that the black walnut trees on the project site are locally important and protected by the County tree ordinance. 41

Mitigation measure BIO-3 states that the "applicant is proposing to compensate for Impacts to waters of the U.S. and State by creating wetlands on the Southern Site," but that the applicant "may also choose to purchase mitigation credits" in lieu of creating the wetlands. (DEIR, p. 3.4-75.) Please explain who would monitor the created wetlands. And how many mitigation credits would be bought? Will the mitigation credits be required to meet the 2:1 (creation to impact) ratio indicated in subsection (b)? 42

The Draft EIR concludes that Impact BIO-5 ("would not conflict with local policies or ordinances protecting biological resources") is less than significant. But the project is consistent with Policy 3-4 because it will convert agricultural lands to urban uses; it is inconsistent with Policy 8-6 because significant and mature California black walnut trees will be removed and will not be preserved; it is inconsistent with Policy 8-9 because the project site contains endangered species and the project will not maintain all areas in their natural state; and it is inconsistent with Policy 8-27 because the project will impact wetlands instead of protecting them. 43

Finally, as noted above, the Draft EIR assumes that the project will be annexed into an existing GHAD, which would "assume specified responsibilities" and provide for 44

"funding of monitoring and maintenance of biotic resources, as required and consistent with the Plan of Control." (DEIR, pp. 2-41 to 2-42.) Please explain why it is reasonable to assume that a GHAD, which is designed to address geologic hazards, would have the interest in and expertise to manage biological resources. (DEIR, pp. 3.9-10 to 3.9-11.)

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7) Cultural Resources:

Based on CEQA Guidelines section 15064.5 and Appendix G of the CEQA Guidelines, a project would have significant adverse impacts to cultural resources if the project would:

- Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5;
- Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5;
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
- Disturb any human remains, including those interred outside of formal cemeteries.

Any one of the above-cited impacts to a historical resource, as defined by Public Resources Code sections 21084.1 and 5020.1, constitutes a substantial adverse change pursuant to CEQA. A substantial adverse change to a historical resource is considered a significant impact on the environment.

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CEQA requires that, for projects financed by, or requiring the discretionary approval of public agencies in California, the effects that a project has on historical and unique archaeological resources must be considered. (Pub. Resources Code, § 21083.2, subd. (a); CEQA Guidelines, § 15064.5.) For purposes of CEQA, a historical resource is "a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources [CRHR]"; and any "substantial adverse change in the significance of an historical resource" is considered a significant effect on the environment. (Pub. Resources Code, § 21084.1.) Historical resources can be "any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California." (Pub. Resources Code, § 5020.1, subd. (j).) "Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation,

or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired." (CEQA Guidelines, § 15064.5, subd. (b)(1).)

The Draft EIR states that the California black walnut trees on the project site are remnants of a historic orchard dating back to the 1950s. (DEIR, pp. 3.2-4 [part of orchard dating back to 1958-1968], 3.5-11 [orchard present in archival photos from 1946].). Has the County determined whether the remnants of the walnut orchard are a historic resource? If the County finds the walnut orchard to be a historic resource, the removal of these trees would be a substantial adverse change and would thus be a significant cultural resources impact. (CEQA Guidelines, § 15064.5, subd. (b)(1).) 45 CONT

Mitigation measure CUL-1 provides that, in the event of the inadvertent discovery of potentially significant cultural resources during construction, the "archaeologist shall make recommendations concerning appropriate measures, including but not limited to excavation and evaluation of the finds." (DEIR, pp. 3.5-13 to 3.5-14.) This mitigation is insufficient to ensure that impacts will be less than significant because it does not ensure no substantial adverse change in the significance of the historical resource. CEQA Guidelines section 15064.5 provides that relocation or alteration of the resource of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired is a substantial adverse change. (CEQA Guidelines, § 15064.5, subd. (b)(1).) 46

Mitigation measure CUL-3 requires that, in the event a significant paleontological resource is inadvertently discovered during construction, "the paleontologist shall design and carry out a data recovery plan consistent with the Society of Vertebrate Paleontology standards." (DEIR, p. 3.5-15.) What are the standards referenced here? Again, this mitigation is insufficient to ensure that impacts will be less than significant because it does not ensure that there would be no substantial adverse change in the significance of the historical resource. 47

8) Geology, Soils, and Seismicity:

Please review and respond to the attached technical comments from the Town's staff. (Attachment 2 [Geotechnical and Grading Concerns].) 48

Appendix E, the Preliminary Geotechnical Report, includes recommended measures that should be referenced in the Geology, Soils, and Seismicity section. (See, e.g., DEIR, 49

Appendix E, pp. 8["Landslide mitigation measures should be incorporated where improvements are planned adjacent to open-space areas that will remain in a natural condition."], 12 ["The Geotechnical Engineer or qualified representative should be present during all phases of grading operations to observe demolition, site preparation, grading operations, and subdrain placement"],16 ["2:1 slopes should be provided with erosion control protection such as Rhino Snot Soil Stabilizer or other equivalent soil stabilization product"; "subsurface water flow and spring activity should be controlled in development areas through the use of subdrains"], 19 ["we recommend that landsliding at the site be further characterized in order to assess the potential impact to the site grading and proposed development"].) 49 CONT

If implementation of a GHAD is necessary to reduce impacts to less than significant levels, this requirement should be identified as a mitigation measure.

Please also explain how the project is consistent with General Plan Policies 10-22, 10-24, 10-26, 10-28, and 10-29 (see Attachment 2). The slides, steepness of the slopes in and above the slides, and the highly visible scar that likely would be left after slide mitigation (e.g., exposed bedrock from the ridgeline down 80-100 vertical feet of the repair area and/or use of geogrid reinforcing) all fly in the face of the intent of General Plan Safety Element Policies. 50

9) Hazards and Hazardous Materials:

In its discussion of Impact HAZ-5 ("would not expose people or structures to a significant risk of loss, injury or death involving wildland fires"), the Draft EIR states that "consistent with the SRVFPD Exterior Hazard Abatement Program, open space areas adjacent to the Residential Development Area would be required to provide a 15-foot disked or bladed fuel break along the perimeter of the property." (DEIR, p. 3.7-16.) Please explain more about the SRVFPD Exterior Hazard Abatement Program. Who ensures compliance with this program and how? If these measures are not codified, why doesn't the Draft EIR include these requirements as mitigation measures? 51

10) Noise:

The Draft EIR concludes that Impact NOI-1 ("exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance") is less than significant with mitigation. (DEIR, pp. 3.10-18 to 3.10-30.) In particular, the Draft EIR concludes that pipeline construction noise impacts would be 52

less than significant with mitigation. (DEIR, p. 3.10-24.) But the analysis for this impact is inaccurate. If the worst case scenario of noise is 85 dBA L_{max} at a distance of 50 feet from the active construction area, and the six-to-eight-foot-high soundwall provides 6 dBA to 10dBA reduction to residences along the west side of San Ramon Valley Boulevard, then wouldn't the residences experience up to 79 dBA L_{max}? Yet the DEIR reports that it will be 69 dBA L_{max}. 52 CONT

Mitigation Measure NOI-1a provides for an "onsite complaint and enforcement manager" to respond to and track complaints. Please explain how noise complaints be handled. Will relocation be offered? Or will activities be stopped? (DEIR, p. 3.10-29.) The mitigation measure should be revised to specify the potential avenues for redressing complaints. 53

Mitigation Measure NOI-1b requires all proposed residential units located within 216 feet of the centerline of Camino Tassajara to include air conditioning or some form of ventilation system to ensure that windows can remain closed for a prolonged period of time. (DEIR, pp. 3.10-26, 3.10-30.) This mitigation measure appears inadequate. Were other mitigation measures considered? How does this requirement compare to requirements imposed on other projects that the County has conditionally approved because the ambient noise levels are between 60-70 dBA L_{dn}? (DEIR, p. 3.10-12.) 54

Please explain how the Project is consistent with the following General Plan policies: Policy 11-2 ("standard for outdoor noise levels in residential areas is a DNL of 60 dB"), and Policy 11-4 ("require new single-family housing projects to provide for an interior DNL of 45 dB or less"). (DEIR, p. 3.10-12.) 55

Please also explain why long-term noise measurements were only conducted on the Southern Site and not the Northern Site? (DEIR, p. 3.10-6.) 56

11) Public Services and Recreation:

In the discussion of Impact PSR-1 ("would not result in substantial adverse physical impacts associated with the provision of new or physically altered fire facilities"), the Draft EIR states that "comments and requirements provided by SRVFPD in its review" of the planning application for the Project "would be included as conditions of approval to ensure appropriate access and compliance with all applicable codes and standards." (DEIR, pp. 3.11-11 to -12) But what are these conditions and requirements? Why arethey 57

not included in the Draft EIR as mitigation measures? Please revise this discussion to ensure there is no improper deferral of mitigation. 57 CONT

The Draft EIR concludes that Impact PSR-2 ("would not result in substantial adverse physical impacts associated with the provision of new or physically altered law enforcement facilities") is less than significant. But there is no substantial evidence to support this conclusion. Police response times are not meeting General Plan Policy 7-59 goals of 5 minutes for 90 percent of all priority 1 and 2 call's emergency response times in urban and suburban areas (DEIR, pp. 3.11-3, 3.11- 8). Actual response times are 11 minutes, 24 seconds to 16 minutes, 46 seconds. And the project's response time could be as high as 17 minutes. Yet, DEIR simply relies upon a vague reference to a "response" from the Sheriff's Office that "did not indicate that the Project would result in the need for new or expanded Sheriff facilities in order to maintain acceptable service ratios, response times, or other performance objectives." (DEIR, p. 3.11-12.) Please provide a copy of any written response from or a more complete summary of any conversations with the Sheriff's Office. 58

In addition, the DEIR does not address potential impacts on the Town of Danville's Police Department. Because the Town's police department facility and officers in the field are physically closer to this unincorporated area of the County, the Town's officers are frequently first responders to Priority 1 calls under mutual aid. Any addition of units, as well as increased response times due to additional traffic, should be addressed. 59

12) Utilities and Service Systems:

In the discussion of Impact USS-2 ("would not require or result in the construction of wastewater treatment facilities or expansion of off-site existing facilities") and Impact USS-3 ("would not result in a need for new or expanded off-site storm drainage facilities"), the Draft EIR focuses only on "off-site" facilities. (DEIR, pp. 3.13-35 to 3.13-36.) Yet the corresponding significance thresholds for these impacts does not include the term "off-site" and instead broadly applies to any new facilities. (DEIR, p. 3.13-21.) Please explain this discrepancy. 60

E. The Draft EIR's analysis of cumulative effects is inadequate and violates CEQA. 61

An EIR must analyze cumulative impacts because "the full environmental impact of a proposed project cannot be gauged in a vacuum." (*Communities for a Better Environment*

v. Cal. Resources Agency (2002) 103 Cal.App.4th 98, 114.) The CEQA Guidelines define cumulative impacts to be "the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects." (Guidelines, § 15355, subd. (b).) Thus, impacts that are "individually minor" may be "collectively significant." (*Ibid.*)

In assessing a proposed project's contribution to cumulative effects, CEQA requires a lead agency to undertake a two-step analysis. First, the agency must consider whether the combined effects from the proposed project and other projects would be cumulatively significant. And second, if the answer is yes, the agency must then consider whether the "proposed project's incremental effects are cumulatively considerable." (*CBE v. Resources Agency, supra,* 103 Cal.App.4th at p. 120; Pub. Resources Code, § 21083, subd. (b)(2); Guidelines, §§ 15355, subd. (b), 15064, subd. (h)(1).)

61 CONT

Here, the Draft EIR's Cumulative Effects section appears to disregard the fact that impacts that are individually minor may be collectively significant. Only those impacts with significant and unavoidable project-level impacts are found to be cumulatively considerable. (DEIR, pp. 4-5 [greenhouse gas emissions impacts], 4-13 [transportation impacts].) For all the other impacts, the Draft EIR concludes the cumulative impacts are less than cumulatively considerable based on two assumptions: (i) that the Project's project-specific mitigation measures would reduce the project's contribution to cumulative impacts to less than cumulatively considerable levels; and (ii) that other cumulative projects would be similarly required to implement adequate mitigation. These assumptions are not supported by substantial evidence.

For example, in discussing the cumulative Biological Resources impacts, the Draft EIR states that the "required mitigation would reduce the Project's contribution to any significant cumulative impact on special-status wildlife species to less than cumulatively considerable." (DEIR, p. 4-6.) There is no further discussion of why this conclusion is reasonable and accurate. Instead, this conclusory statement is followed by another in the same vein: "Some of the other projects listed in Table 4-1 are located on sites with similar biological attributes and, therefore, would be required to mitigate for impacts on special-status plant and wildlife species in a manner similar to the project." There is no true analysis or evidence offered, much less substantial evidence.

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Similarly, in discussing cumulative Agricultural Resources impacts, the Draft EIR states that, "due to the increase in urbanization . . . since the 1940s," there is an "existing cumulatively significant impact related to loss of farmland." (DEIR, p. 4-4.) And the

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Draft EIR admits that the project could result in the conversion of lands from Farmland of Local Importance to non-agricultural uses. But there is no explanation for why the project's incremental effects are not cumulatively considerable. (DEIR, p. 4-4.) 63 CONT

F. The Draft EIR lacks a reasonable range of alternatives and improperly dismisses alternative locations or offsite alternatives.

CEQA requires an EIR to "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 . . . and evaluate the comparative merits of the alternatives." (Guidelines, §§ 15126.6, subd. (a), 15002, subd. (a)(3).) The evaluation of alternatives must "contain analysis sufficient to allow informed decision making." (*Laurel Heights I, supra*, 47 Cal.3d at pp. 404, 406 [requiring "meaningful detail"]; *Kings County, supra*, 221 Cal.App.3d at p. 735 [finding EIR lacked "quantitative, comparative analysis" of alternatives].) An "EIR is nonetheless defective under CEQA" when it fails to explain a lead agency's "analytic route." (*Laurel Heights I*, at p. 404; *Kings County*, at p. 731 ["[a]n inadequate discussion of alternatives constitutes an abuse of discretion"].) 64

The Draft EIR here only analyzes two alternatives: the No Project Alternative and the Reduced Intensity Alternative. (DEIR, p. 5-2.) Since the No Project Alternative is required by CEQA and contemplates, as required, the consequences of approving nothing, the Reduced Intensity Alternative is the only true "project" alternative analyzed. And, although the Reduced Intensity Alternative would avoid the project's significant unavoidable greenhouse gas emissions impacts, significant and unavoidable transportation impacts would still occur. (DEIR, pp. 5-5, 5-7.) The Draft EIR should be revised to add one or more additional alternatives, and those new alternatives should be aimed at reducing the project's transportation impacts to less than significant levels.

Offsite alternatives should be considered because they are more likely than the Reduced Intensity Alternative to reduce the project's significant and unavoidable transportation impacts. But the Draft EIR improperly dismissed several such alternatives from further consideration, apparently out of concern that those alternatives might look so much better than the proposed project that it would not be fair to the project. The Draft EIR states that "only sites located within or directly adjacent to the ULL in the San Ramon, Danville, Blackhawk area that are currently designated for agricultural uses were considered, *in order to facilitate an equitable comparison of the Project to an alternative project* 65

location." (DEIR, p. 5-10, italics added.) This rationale is inconsistent with CEQA's mandate to evaluate an adequate range of alternatives that can avoid or substantially lessen the project's significant impacts. The "'applicant's feeling about an alternative cannot substitute for the required facts and independent reasoning" showing the agency's independent "analytical route.'" (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1458.) 65 CONT

The Draft EIR goes on to reject two specific alternative sites for weak and unsupportable reasons. The Norris Canyon Alternative Site, which would not require adjustment of the ULL, is rejected in part because a project in that location "would likely utilize the Bolinger Canyon Road and Norris Canyon Road intersection, which is currently a four-way, stop-controlled intersection and may need to be signalized to accommodate increased traffic." (DEIR, p. 5-11.) It is unclear why the need for signalization of one intersection is an insurmountable traffic hurdle or why it isn't preferable to the project's creation of significant and unavoidable traffic impacts. An "agency may not simply accept at face value the project proponent's assertion's regarding feasibility" of an alternative. (*Save Round Valley Alliance, supra,* 157 Cal.App.4th at p. 1458.) Another reason offered for rejecting this alternative is that "development on this parcel could potentially be implemented at a greater intensity because approximately 90 acres of the site is within the ULL." This is pure speculation and circular logic. Furthermore, the Norris Canyon Alternative Site consists of two parcels; the parcel closest to existing residential development (i.e., APN 211-210-029) is 31.5+/- acres in size. This fact further erodes the logic that the Norris Canyon Alternative Site can't be considered as a comparable site for the development area of the Tassajara Parks Project because of the anticipated development intensity. The 31.5+/- portion of the Norris Canyon Alternative Site has existing single family residential development directly to the east. Looking at the most proximate 31.5+/- acre portion of abutting residential development indicates the presence of 48 lots with an average lot size in excess of 17,750 square feet (i.e., an average lot size in excess of 225% of the average lot size proposed in the Tassajara Parks Project). The existing residential development on this 31.5+/- acres would serve as a good representation of the reasonable development yield for a 30+/- acre area with gentle to moderate slopes in close proximity of the ULL (i.e., the Tassajara Parks Project Site). The analysis that should have occurred looking at the Norris Canyon Alternative Site arguably could have also served to provide direction for an "Environmentally Superior Alternative Plan" for the Tassajara Parks Project. The Draft EIR can easily define an alternative at the Norris Canyon site that includes the same number of residential units as the proposed project. Since the Draft EIR rejected this alternative from further

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consideration, there is no analysis of whether or not this alternative would be able to avoid or lessen the project's significant and unavoidable transportation impacts. 67 CONT

The reasons for rejecting Chapparal Court Alternative Site are equally unconvincing. CEQA does not restrict an agency's authority to consider an adequate range of alternatives to only those that perfectly match a proposed project. The Draft EIR states that "residential development on this site would likely create significant traffic impacts requiring mitigation, particularly on San Ramon Valley Boulevard." (DEIR, p. 5-12.) Again, it is unclear why the need for mitigation should be used to reject an alternative without further analysis. The Draft EIR also repeats the same reason noted above that "development on this parcel could potentially be implemented at a greater intensity because the majority of the site is within the ULL." One of the two parcels constituting the Chapparal Court Alternative Site is also close in size to the proposed development area in the Tassajara Parks Project (i.e., APN 211-010-042, at 20+/- acres in size). As with the Norris Canyon Alternative Site, there is existing residential development directly east of the Chapparal Alternative Site. The abutting 30+/- acres of the most proximate residential development to the east of the Chapparal Court Alternative Site contains 72 lots with an average lot size measurably larger than is proposed by the Tassajara Parks Project (i.e., 10,500+/- square feet versus 7,850+/- square feet in the Tassajara Parks Project - giving an average lot size that is 133% larger than the average lot size proposed in the Tassajara Parks Project). It is noteworthy that an application for single family residential development over the 20+/- acre Chapparal Court parcel and a 10-acre portion of the larger parcel making up the Alternative Site could be processed. 68

Finally, the Town recommends that the Reduced Intensity Alternative be modified to have the 30-acre development envelope include a maximum of 65 total units, including ten below market rate units to meet the project's 15% inclusionary housing requirement. This modified Reduced Intensity Alternative should include withinin the 30-acre Residential Development Area: (1) all proposed residential lots and project roadways; (2) the requisite area for roadway dedication along Camino Tassajara; (3) a 35-to-40-foot-wide buffer landscape area along the project frontage on Camino Tassajara; (4) the detention basin/ storm water treatment facility; (5) the area necessary for debris benches at the interface of project lots or roadways and natural or engineered slopes; and (6) the area necessary to correct landslides to provide for the project's development. This layout should avoid the slopes containing or abutting the deep seated landslide. This plan should limit the corrective work for the large landslide at the middle rear section of the current project layout to construction of keyways at the toe of the slide to lessen the probability of a subsequent major failure of the slide. 69

G. The Draft EIR's cursory discussion of growth-inducing impacts ignores the potential impacts that would result from the removal of a major obstacle to population growth: adequate water supply.

It is "settled that [an] EIR must discuss growth-inducing impacts even though those impacts are not themselves a part of the project under consideration, and even though the extent of the growth is difficult to calculate." (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 368.) Thus, EIRs must "[d]iscuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment." (CEQA Guidelines, § 15126.2, subd. (d).) This mandate applies especially where, as here, a project "would remove obstacles to population growth." (*Ibid.*)

The Draft EIR only provides a cursory analysis of the project's growth-inducing impacts, populated with conclusory statements unsupported by substantial evidence. (DEIR, pp. 6-1 to 6-2.) In a single paragraph of analysis, the Draft EIR explains that the "nominal 0.07 percent" increase in the County's population "is considered negligible, and, therefore, direct population growth would be less than significant." (DEIR, p. 6-2.) The Draft EIR goes on to state that "urban infrastructure would be extended only to the 30-acre Residential Development Area, [and] adjacent areas would remain outside of the Contra Costa Urban Limit Line, thereby prohibiting further expansion." (DEIR, p. 6-2.) This analysis is insufficient. The Draft EIR needs to consider and analyze the potential growth-inducing impacts of securing more water than the project is expected to need. In the Utilities and Service Systems section, the Draft EIR discloses that the Long-term Water Purchase Agreement Term Sheet provides for the purchase of up to 200 acre feet per year (AFY) of Calaveras Public Utility District Water. Since the project's maximum demand is only 47 AFY, the Draft EIR goes on to explain that the "final" purchase agreement is likely to be 100 AFY, with 50 AFY of water "for an ample margin of safety." (DEIR, p. 3.313-26.) If the project proceeds under this water supply option, the Project would have secured twice the amount of water needed to serve the project. This is the very definition of removing an obstacle of future growth. 70

Similarly, if the project proceeds with recycled water as its water source, then the project would result in the construction of a 1.8-mile recycled water pipeline along San Ramon Valley Boulevard from Acosta Boulevard to Montevideo Avenue. (DEIR, p. 71

3.13-31.) This length of pipeline is "not currently included in future recycled water projects." (DEIR, p. 3.13-31.) Thus, the project would again be removing an obstacle to growth by providing infrastructure that was not previously planned. 71 CONT

H. Energy Conservation Analysis.

CEQA Guidelines, Appendix F states: "If appropriate, the energy intensiveness of materials may be discussed. [¶] 2. The effects of the project on local and regional energy supplies and on requirements for additional capacity. [¶] 3. The effects of the project on peak and base period demands for electricity and other forms of energy. [¶] 4. The degree to which the project complies with existing energy standards. [¶] 5. The effects of the project on energy resources. [¶] 6. The project's projected transportation energy use requirements and its overall use of efficient transportation alternatives." Appendix F also lists mitigation measures that may be included in the EIR: "1. Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed. [¶] 2. The potential of siting, orientation, and design to minimize energy consumption, including transportation energy, increase water conservation and reduce solid-waste. [¶] 3. The potential for reducing peak energy demand. 4. Alternate fuels (particularly renewable ones) or energy systems. [¶] 5. Energy conservation which could result from recycling efforts." 72

The Draft EIR's discussion of Energy Conservation is inadequate. (DEIR, pp. 6-3 to 6-7.) Specifically, Draft EIR improperly relies solely upon compliance with the building code to mitigate operational and construction energy impacts, without further discussion of the Appendix F criteria. This strategy was disapproved in *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 211. Additionally, the Draft EIR's provision of transportation fuel consumption estimates in Table 6-2 is not sufficient assessment of the transportation energy impacts. How does 595 gallons per day compare to other projects? Why couldn't mitigation measures be required to reduce this? The Draft EIR should explicitly consider the feasibility of the mitigation measures suggested in Appendix F, including the use of more onsite renewable energy.

III. The Project's inconsistency with the General Plan violates both the Planning and Zoning Law and the Subdivision Map Act.

The general plan has been described as the "constitution for all future development" and thus all local land use decisions must be consistent with it.[19] The Planning and Zoning Law provides "[c]ounty or city ordinances shall be consistent with the general plan."[20] The Subdivision Map Act similarly provides that "[n]o local agency shall approve a tentative map, or a parcel map for which a tentative map was not required, unless the legislative body finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan."[21] The local agency must deny the tentative map if it is not consistent with the general plan.[22]

A project is "inconsistent with a general plan 'if it conflicts with a general plan policy that is fundamental, mandatory, and clear.'"[23] In the recent *Spring Valley Lake Association v. City of Victorville* case, the Court of Appeal disapproved of the city's general plan consistency finding because the project failed to comply with a "specific, mandatory, and fundamental" requirement.[24] The city's general plan included an implementation measure requiring "all new commercial or industrial development to generate electricity on-site to the maximum extent possible."[25] The city's project approvals for the commercial retail development did not require on-site electricity generation, effectively finding it infeasible.[26] But the court concluded that the city failed to "provide facts, reasonable assumptions, or expert opinion amounting to substantial evidence to

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[19] / *O'Loane v. O'Rourke* (1965) 231 Cal.App.2d 774, 782.
[20] / Gov. Code, § 65860, subd. (a).
[21] / Gov. Code § 66473.5.
[22] / See Gov. Code § 66474, subds. (a) & (b). Other findings that must result in denial of a tentative map include that the site is not physically suitable for the development, the design is likely to cause substantial environmental damage or serious public health problems, and that the design would conflict with a public easement. (Gov. Code § 66474, subds. (c)-(g).)
[23] / *Spring Valley Lake Assn. v. City of Victorville* (May 25, 2016, D069442) __ Cal.Rptr.3d__ [2016 WL 3361554 at p. 4] (*Spring Valley*) [citing *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782].
[24] / *Id.* at p. 5.
[25] / *Id.* at p. 3.
[26] / *Id.* at p.4.

support a conclusion solar power generation or other alternatives for on-site electricity generation [were] completely infeasible."[27]

Despite the deference afforded to an agency's fact-finding and the deference that courts must pay to agencies interpreting their own plans and policies, it is not uncommon for courts to overturn project approval when projects are inconsistent with general plan policies that are *fundamental, mandatory, and clear*. For example, in *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1340-1342, the court found that a residential subdivision was inconsistent with a general plan land use element policy that restricted low density residential (LDR) designations to land contiguous to community regions or rural centers. The court noted that the project's use of the LDR designation was at odds with undisputed evidence showing that the project site was not contiguous to community regions or rural centers. Concluding that the policy at issue was fundamental and mandatory, the appellate court agreed with plaintiffs that the project was inconsistent with the land use element and reversed the trial court's ruling in favor of the county.

Similarly, in *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-784, the court held that the project was inconsistent with the general plan's traffic service level policy. The county's general plan included a policy requiring projects to achieve LOS C or better under a specific method of analysis. The EIR explained that it used a different method of analysis to achieve LOS C because the project would result in LOS D or E under the general plan's preferred method of analysis. The court disapproved of this attempt to skirt the requirements in the general plan policy, deemed the project inconsistent, and set aside the approval.

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Here, as explained above, the Tassajara Parks project is inconsistent with several General Plan policies and goals, many of which are arguably "fundamental, mandatory, and clear." The Project includes a General Plan amendment, rezoning of both the Northern and Southern Sites, and a subdivision/ vesting tentative map.[28] Therefore, the County must make required findings about the Project's consistency with the General Plan under Government Code sections 65860, 66473.5, and 66474.

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[27] / *Ibid.*

[28] / Draft EIR, p. 2-2.

In addition to responses to the arguments above relating to General Plan inconsistencies, the Town requests that the County specifically explain how the Project is consistent with the following policies and goals:

- General Plan Goal 3-G
- General Plan Goals LU3.8-3-A, 9-B, 9-9, 9-15.
- Policies 3-7, 3-9, 3-10, 3-11
- Policies 7-59, 7-137, 7-142
- Policies 8-4, 8-6, 8-9, 8-27
- Policies 9-14, 9-22, 9-24
- Policies 10-22, 10-24, 10-26, 10-28, 10-29
- Policies 11-2, 11-4

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CONT

The existing explanations in the Draft EIR for the Project's consistency with these and other policies noted in sections above are insufficient. Please provide additional analysis and information instead of simply repeating what is already stated in the Draft EIR.

IV. Conclusion

The Town appreciates this opportunity to provide comments on the Draft EIR for the Tassajara Parks Project and looks forward to working with the County to address the issues raised in this letter.

Very truly yours,

Joseph A. Calabrigo
Town Manager

cc: Mayor and Town Council
Supervisor Anderson, District 2
Sabrina Teller & L. Elizabeth Sarine, Remy Moose Manley, LLP

Enclosures

Attachment 1:	Stantec's July 15, 2016 Peer Review of Tassajara Parks Traffic Impact Study
Attachment 2:	Town Staff's Geotechnical and Grading Concerns
Attachment 3:	County Code sections related to Urban Limit Line & Measure C
Attachment 4:	Contra Costa General Plan- Chapters 1, 3, & 4
Attachment 5:	Contra Costa Transportation Authority's Measure J Transportation Sales Tax Expenditure Plan
Attachment 6:	Board of Supervisor's July 12, 2005 staff report on Urban Limit Line
Attachment 7:	Measure L Voter Pamphlet (November 2006 election)
Attachment 8:	Board of Supervisor's November 3, 2009 approval of Bay Point Waterfront Project

Town of Danville (DAN)

Response to DAN-1
Please see Responses to DAN-2 to DAN-73 for responses to the issues summarized by this comment.

Response to DAN-2
The County's Inclusionary Housing Ordinance allows for payment of an in-lieu fee, and does not require the construction of affordable homes within a proposed development when between 5 and 125 for-sale units are being proposed. Please also refer to Master Response 2: Agricultural Preservation Agreement.

Response to DAN-3
Please refer to Master Response 2: Agricultural Preservation Agreement for a discussion of the ULL.

Response to DAN-4
As indicated in RDEIR Section 2, Project Description, approximately 28.47 acres of land outside the 30-acre Residential Development Area would require grading/other ground disturbance as part of the Project.[6] No urban uses, as that term is interpreted by the County consistent with its ULL policies, would be established outside the 30-acre Residential Development Area. On the contrary, consistent with the intent of the ULL as cited in Ordinance Code 82-1.006, areas of the Project Site outside the 30-acre Residential Development Area, including those areas requiring temporary remedial grading, would be permanently preserved for agricultural, open space, wetlands, parks, recreation and non-urban uses through the dedication of 727 acres to the EBRPD.

As indicated in Ordinance Code Section 82-1.032, the term "nonurban uses" means "rural residential and agricultural structures allowed by applicable zoning and facilities for public purposes, whether privately or publicly funded or operated, which are necessary or desirable for the public health, safety or welfare by state or federal law." Remedial grading that would take place outside the 30-acre Residential Development Area would be conducted to reduce existing and potential landslide risks, which is necessary and desirable for public safety. As such, the Project description properly defined the 30-acre Residential Development Area.

Response to DAN-5
This comment summarizes issues that are raised throughout the remainder of the comment letter. Please refer to subsequent responses for individual discussion of the issues raised.

Response to DAN-6
Please refer to response DAN-4 above. The County's Inclusionary Housing Ordinance allows for payment of an in-lieu fee, and does not require the construction of affordable homes within a proposed development when between 5 and 125 for-sale units are being proposed. Please also refer to Master Response 2: Agricultural Preservation Agreement. Please refer to Master Response 2: Agricultural Preservation Agreement for a discussion of the ULL.

Response to DAN-7
Please refer to response DAN-4 above. Please refer to Master Response 2: Agricultural Preservation Agreement for a discussion of the ULL. Please also note that the County's Inclusionary Housing

[6] This ground disturbance would be further reduced by approximately 1.25 acres with the elimination of the equestrian staging area

Ordinance allows for payment of an in-lieu fee, and does not require the construction of affordable homes within a proposed development when between 5 and 125 for-sale units are being proposed.

Response to DAN-8

The Town of Danville is not proposed to be a signatory to the Tassajara Valley Agricultural Preservation Agreement (formerly referred to as the MOU—see RDEIR, Appendix L). As shown in the accompanying map included in Appendix L, the Project's Northern and Southern Sites are both included in the boundary area of the Tassajara Valley Agricultural Preservation and Enhancement Area. Please also refer to Master Response 2: Agricultural Preservation Agreement for further discussion.

Response to DAN-9

Please refer to response DAN-4 above. With respect to the potential environmental impacts that could occur outside the 30-acre Residential Development Area, the RDEIR evaluates all areas of ground disturbance and grading to ensure that all potential environmental impacts are fully evaluated. See, e.g., RDEIR Section 2, Project Description, pp. 2-34, Grading, as well as Section 3.4, Biological Resources, Impact BIO-1, which makes reference to 50+ acres throughout the impact analysis.

Response to DAN-10

The RDEIR (Section 2, Project Description, subsection 2.2.6, pages 2-15 to 2-21) provides a description of the Agricultural Preservation Agreement (formerly referred to as the MOU). The Agricultural Preservation Agreement is included in Appendix L of the RDEIR, and notes all proposed signatories (see RDEIR, Appendix L). As shown in the accompanying map included in Appendix L, the Project's Northern and Southern Sites are both included in the boundary area of the Tassajara Valley Agricultural Preservation and Enhancement Area.

Please also refer to Master Response 2: Agricultural Preservation Agreement for further discussion.

Response to DAN-11

The RDEIR includes Table 2-2, Summary of Ground Disturbance Areas, which shows a total of approximately 58.47 acres of disturbance, including approximately 1.25 acres at the Future Equestrian Staging Area. As explained above, the Project no longer includes the equestrian staging area as a Project component.

Response to DAN-12

The commenter's skepticism surrounding the mechanism to be used for the transfer is noted. As stated in RDEIR Section 2, Project Description, approximately 609 acres of the Southern Site is proposed for transfer to EBRPD through fee simple conveyance (subject to a portion of it being covered by a conservation easement for purposes of wetland creation and preservation and habitat mitigation, as approved by relevant resource agencies), along with 101 acres of the Northern Site (collectively, the Dedication Area). Transfer of the Dedication Area in fee to EBRPD would ensure permanent preservation and protection for park, recreation, open space, scenic, agriculture and grazing uses as well as wetland preservation and creation, and habitat mitigation (as approved by relevant resource agencies). The legal mechanism used for the transfer of land and the nature and purpose of the EBRPD as the receiving public agency would ensure preservation in perpetuity.

Response to DAN-13
The RDEIR makes clear that, as it relates to the functioning of the GHAD, any protection for biotic resources would only occur to the extent those activities are spelled out in the Plan of Control in accordance with applicable laws and regulations, which identifies responsible parties and associated activities that are related to the implementation of the GHAD.

Response to DAN-14
The RDEIR Section 2, Project Description, subsection 2.2.23 (page 2-2), identifies that the applicant proposes to convey approximately 609 acres of the Southern Site to EBRPD in fee; in addition, 101 acres of the Northern Site would be conveyed in fee to EBRPD. A condition of approval, along with obligations set forth in the Development Agreement, would require the applicant to do so as contemplated by the Project and as described in the RDEIR. Any future use of the Dedication Area by EBRPD may be subject to CEQA, as defined in CEQA Guidelines Section 15060, Preliminary Review, but would be required to be consistent with all applicable laws and regulations (including, without limitation, the County's ULL provisions) as well as all requirements under the governing agreement with EBRPD and conservation easement provisions approved by the resource agencies.

Response to DAN-15
It is acknowledged that the proposed water supply approach through water conservation offsets would trigger the need for a petition to the State Water Board to change the place of use of EBMUD's water rights. In addition, the County notes that RDEIR Section 2, Project Description, page 2-41, lists the State Water Board as a Responsible Agency, and also lists the required LAFCO approvals for an SOI amendment (as well as annexation) to the CCCSD and EBMUD.

Additionally, Section 2.6 of the RDEIR has been amended to clarify that State Water Board approval of EBMUD's change petition would be required. See Section 4, Changes to the RDEIR/Errata for confirmation of the updated text. Please also refer to Master Response 1: Water Supply and Distribution, for a discussion of the timing of EBMUD Board action in relation to the overall Project approvals and CEQA review.

Response to DAN-16
As explained in the RDEIR, the Project no longer proposes the recycled water option. The RDEIR evaluates the acceleration or expansion of water conservation measures already identified by EBMUD as a means of offsetting Project water demand. Furthermore, the Project no longer proposes to use CPUD water. Please see Master Response 1: Water Supply and Distribution.

Response to DAN-17
Please see responses to comment DAN-18 through DAN-73, which address the individual comments raised.

Response to DAN-18
The comment regarding slope analysis is noted.

The Project would be constructed on the lower flanks of existing ridges to preserve the hilltops and ridgeline features that characterize the area. A nominal amount of land (an estimated 0.82 acre) that is equal to or steeper than 26 percent would be graded for slope stability or as part of lot creation. A

new Exhibit 2-15 Slope Analysis is added to the RDEIR to provide additional support for this discussion. See Section 4, Changes to the RDEIR/Errata for the new Exhibit.

Response to DAN-19
The comment is noted. The RDEIR did include this Exhibit as requested (see Section 3.6, Geology, Soils, and Seismicity, page 3.6-9, Exhibit 3.6-1, Northern Site Soil Geologic Conditions).

Response to DAN-20
The planted Northern California black walnut trees on the Project Site are not considered special-status species because they are planted or naturalized rootstock. Furthermore, the Project Site is outside the geographic range of the remaining viable natural stand of Northern California Black Walnut. As such, no mitigation is warranted for the removal of walnut trees. Within the Ground Disturbance Areas, 10 Northern California black walnut (*Juglans hindsii*), one dead English walnut (*Juglans regia*), and one plum (*Prunus domestica*) were identified. These trees are considered "protected" under Contra Costa County's tree ordinance. However, because of the decay present in these trees, none are in good condition. Regardless, as replacement for the 19 trees to be removed on the Northern Site, the Project is proposing to plant approximately 369 new trees as part of the development of the Residential Development Area, which is well in excess of the number of trees that would be required pursuant to the County's requirements.

Response to DAN-21
The RDEIR includes additional text to clarify the issues raised by the commenter:

- A discussion of the regulatory framework regarding landslide grading areas was added to RDEIR Section 3.6, Geology, Soils, and Seismicity. The text on page 3.6-11 has been revised to provide more discussion of the County's Ordinance Code.
- Mitigation Measure GEO-1 was revised in the RDEIR to expressly incorporate recommendations from the ENGEO report.
- Further discussion of Ordinance 94-4.420 was added to the discussion under Impact GEO-3.

The above changes merely clarify and amplify the underlying analysis, and do not trigger recirculation.

Response to DAN-22
Annexation of the Project into an existing GHAD (likely the Dougherty Valley GHAD) is part of the Project rather than triggering the need for any mitigation; furthermore, formation/annexation would be a condition of approval in any event and thus adding it as a formal mitigation measure is not needed. Furthermore, compliance with applicable laws and regulations and implementation of Mitigation Measure GEO-1 would further ensure that appropriate geologic remediation is performed.

Response to DAN-23
For all significant unavoidable impacts related to traffic, the RDEIR provides feasible mitigation that would reduce impacts to less than significant if implemented. However, because these impacts occur at locations under the jurisdiction of agencies other than Contra Costa County, there is no way to

guarantee that the other jurisdictions will implement the mitigation, despite the Project being required to fund the improvements. Therefore, designating these impacts as significant and unavoidable is appropriate (and viewed as conservative) under CEQA, and the County has fulfilled its duty to mitigate beyond the extent of the Project boundary and its jurisdiction.

Furthermore, the delay calculations for the Camino Tassajara/Hansen Lane intersection have been updated throughout the Transportation Section to reflect the revised phasing, as requested by the Town of Danville. The updated delay calculations resulted in better operations at this intersection than were reported in the RDEIR. Please see Section 4, Changes to the Recirculated Draft EIR/Errata, for confirmation of the modifications to the analysis and conclusions.

Response to DAN-24
As shown in Exhibit 2-8, Preliminary Landscaping Plan, the setback for the Project meets the County setback requirements and has been designed with the assistance and recommendations of the County Public Works Department.

Response to DAN-25
The GHG emission impact threshold of 4.6 MT CO_2e per service population per year (SP/year) is appropriately applied to the Project. Additional text was added to the RDEIR to further clarify this issue. See Section 3.5.5 of the RDEIR, Thresholds of Significance, BAAQMD Criteria of Significance.

Response to DAN-26
BAAQMD does not presently provide a construction related GHG generation threshold, but recommends that construction-related GHGs be quantified. The RDEIR is consistent with this methodology. The RDEIR is also consistent in that it determines the level of significance of construction-generated GHG emissions in relation to meeting AB 32 GHG reduction goals by incorporating construction GHGs into the assessment of operation-related GHGs. Together, construction and operation of the Project would emit GHGs above the BAAQMD threshold of 4.6 MT CO_2e/SP/year. The majority of the Project's emissions are from mobile sources, for which no feasible mitigation measures beyond compliance with existing regulations have been identified. Therefore, increased renewable energy use would not reduce the significant impact to a less than significant level, and there are no other feasible mitigation measures. Refer to RDEIR page 3.3-67 and 3.3-68 for additional discussion.

Response to DAN-27
As presented on RDEIR page 3.3-41, additional discussion has been provided regarding the Project's GHG emissions in relation to consistency with BAAQMD's 2010 Clean Air Plan, Criterion 1. The Clean Air Plan has no mandatory provisions for GHG emissions and has no authority to regulate sources of GHGs. Nonetheless, as a conservative interpretation, the RDEIR has been updated to conclude that the Project would be considered to have a significant impact under Criterion 1 because it would not reduce GHG emissions sufficiently to achieve the service population threshold. With regards to Criterion 2, Project GHGs are mainly a factor of mobile sources, and increased on-site renewable energy would not reduce such sources.

Response to DAN-28
As noted on page 3.3-45 of the RDEIR, an individual project's contribution to an existing significant impact does not automatically result in inconsistency with the Congestion Management Plan (CMP). The CMP includes a review process for projects requiring a General Plan Amendment to determine if the jurisdiction remains consistent with the CMP. This review process is initiated for projects that would generate more than 100 net new peak-hour vehicle trips at the impacted facilities. The Project adds only 7 peak-hour trips to the most heavily traveled freeway segment, well below the 100 net new peak-hour trips threshold. As such, the Project does not individually or cumulatively, exacerbate congestion in a significant manner nor is it inconsistent with the CMP. Refer to RDEIR page 3.3-45 for further discussion.

Response to DAN-29
Mitigation Measure AIR-3 has been updated and no longer contains the phrase "to the extent feasible." Refer to RDEIR page 3.3-58.

Response to DAN-30
The RDEIR correctly relies on analysis included in the Health Risk Assessment (Appendix B of RDEIR), to assess potential impacts from use of heavy diesel equipment near sensitive receptors. Mitigation Measure AIR-3 has been updated so that all construction equipment greater than 50 horsepower would be required to meet Tier 4 standards. This requirement has been assumed in Table 3.3-23.

Response to DAN-31
Measure LUT 4 of the County's CAP is intended to set out the objective of increasing development density in areas within proximity to transit amenities, not to preclude development in areas not served by such infrastructure. For a project to be inconsistent with this measure, it would need to propose low density development within the distance radii described from those facilities. Refer to revisions in the RDEIR, page 3.3-71, for further discussion, as well as RDEIR Response to Comment Danville-13.

Response to DAN-32
Regulations regarding the ULL and the inclusionary housing ordinance are discussed in the RDEIR under Section 3.9.3. Neither the General Plan nor the County Ordinance Code requires inclusionary housing on-site as part of adjusting the ULL nor do they prohibit the use of the in-lieu fees regardless of the location of the project in relation to the ULL. The ULL regulations do state that the County can review the ULL to determine if relocation is in fact warranted to meet housing and jobs needs. Other methods of ULL adjustments are allowed as well and are outlined in RDEIR Section 3.9, Land Use, Population, and Housing. Additional information regarding the Agricultural Preservation Agreement (formerly referred to as the MOU) has been added to RDEIR page 3.9-32. Please also see Master Response 2: Agricultural Preservation Agreement.

Response to DAN-33
Reliance on findings under Section 82-1.018(a)(4) of the Ordinance Code are not a part of the Project; instead, the Board of Supervisors will be required to make specified findings to approve the Project as set forth in applicable laws and regulations, including, among others, the County Ordinance Code. Accordingly, this subsection is not mentioned in the Project Description or in the

Land Use Section of the RDEIR. Please also see Master Response 2: Agricultural Preservation Agreement.

Response to DAN-34
LU 3-7 includes the provision of financing, such as impact fees and developer contributions, to prevent infrastructure facility and service deficiencies. The Project's traffic mitigation meets this standard, despite the RDEIR's conclusions of significant unavoidable traffic impacts. Such impacts are significant and unavoidable because the proposed mitigation would need to be implemented by a jurisdiction other than the County, and therefore, the County cannot ensure the timing and implementation of the mitigation, despite its ability to reduce the impact to less than significant when implemented. Furthermore, it is up to the County whether to approve a project despite significant unavoidable traffic impacts, and if the County elects to do so, then it would be required to adopt a Statement of Overriding Considerations.

LU 3-9 indicates that infill should be *encouraged*, but is not required. Furthermore, the Project Site is directly adjacent to existing services and facilities. The Project can be determined consistent with LU 3-10 because infrastructure would not be growth inducing as it would only serve the Project Site and the agricultural and recreational land dedications would prohibit further expansion consistent with the County ULL provisions, thereby preventing further growth (rather than inducing it). Please also see Master Response 2: Agricultural Preservation Agreement. The Project can be determined consistent with LU 3-11 because it properly requests a ULL amendment to incorporate the Residential Development Area into the ULL and would not conflict with agricultural economics. Finally, the Project's lot sizes can be determined consistent, given the requested GPA and rezoning, coupled with the Project's preservation of significant amounts of open space and agricultural/grazing lands (which would be consistent with maintaining the transition from urban to rural uses).

Response to DAN-35
Regulations regarding the ULL and the inclusionary housing ordinance are discussed in the RDEIR under Section 3.9.3 (Land Use, Population, and Housing). Neither the County General Plan nor the County Ordinance Code requires inclusionary housing on-site as part of adjusting the ULL, nor do they prohibit the use of the in-lieu fees regardless of the location of the project in relation to the ULL.

Response to DAN-36
As explained in Impact LU-3 and Impact LU-4, the Project can be determined consistent with EBMUD policies (with this consistency determination ultimately being made by the EBMUD Board of Directors); with LAFCO policies regarding orderly growth, open space and agricultural preservation (with this consistency determination ultimately being made by LAFCO); and with local laws and regulations (e.g., Ordinance Code) (with this consistency determination ultimately being made by the County). Please also see Master Response 1: Water Supply and Distribution.

Response to DAN-37
The Project's Residential Development Area constitutes less than 4 percent of the total Project Site and would be an even smaller percent of EBMUD's service area. The RDEIR recognizes that the 30 acres of proposed residential uses and related improvements are not a part of a "larger development project located primarily within the USB." There are no other water service providers located in the

Project vicinity; therefore, EBMUD would be considered the local service provider given its proximity (both in terms of service area and infrastructure). Refer to Section 3.13, Utilities and Service Systems, for further discussion regarding EBMUD services. Please also see Master Response 1: Water Supply and Distribution.

Response to DAN-38

Specific threshold language has been included into the analysis in order to further justify the less than significant impact the Project would have on the existing visual character. See RDEIR Section 3.1, Aesthetics, Light, and Glare, page 3.1-18 for more information. As indicated, the visual change must alter either the visual character or quality in a substantially negative way (such as non-compatible visual patterns in terms of dominance, scale, diversity, and continuity) to be considered a significant impact. While the Project would result in a different visual character, it would not be considered substantially negative or non-compatible, as explained further in the RDEIR.

Response to DAN-39

The Project would only convert a small portion of the Project Site's existing agricultural land to residential use after approval of the GPA, zoning amendment and ULL adjustment, thereby ensuring consistency with the mentioned General Plan policies. Additional discussion of the on-site California black walnut trees has been added to Impact AES-2 (RDEIR Section 3.1, Aesthetics, Light, and Glare, page 3.1-19), which merely amplifies and clarifies the analysis and does not trigger recirculation. Removal of protected trees is allowed as long as the required County tree permit approval has been granted and the appropriate removal process has been followed in accordance with applicable County procedures.

Response to DAN-40

It is a common CEQA procedure to conclude zoning consistency based on the requested rezone and not on the existing zoning. If the requested rezoning is not granted, the Project would not be implemented.

Response to DAN-41

The planted Northern California black walnut trees on the Project Site are not considered special-status species because they are planted or naturalized rootstock. Furthermore, the Project Site is outside the geographic range of the remaining viable natural stand of Northern California Black Walnut. As such, no mitigation is warranted for the removal of walnut trees. Within the Ground Disturbance Areas, 10 Northern California black walnut (*Juglans hindsii*), one dead English walnut (*Juglans regia*), and one plum (*Prunus domestica*) were identified. These trees are considered "protected" under Contra Costa County's tree protection ordinance. However, because of the decay present in these trees, none are in good condition. Regardless, as replacement for the approximately 19 trees to be removed on the Northern Site, the Project is proposing to plant approximately 369 new trees on the Residential Development Area, which is well in excess of the County's requirement.

Response to DAN-42

As explained more fully in RDEIR, Mitigation Measure BIO-3, Section 3.4, Biological Resources, page 3.4-76, a qualified Biological Monitor would be present during the creation of the mitigation wetlands. If mitigation credits are purchased, the mitigation ratio would a minimum of 1:1, or as otherwise specified in permitting conditions imposed by the USACE and RWQCB.

Response to DAN-43
Policy 8-6 states that "Significant trees, natural vegetation, and wildlife populations generally shall be preserved." Through the implementation of applicable regulations (County Tree Protection and Preservation) and mitigation along with the dedication of 727 acres in fee to the EBRPD for the permanent preservation of these lands for open space and other non-urban uses, the Project is generally preserving trees, natural vegetation, and wildlife populations, as discussed further in Section 2 of the RDEIR (Project Description). Policy 8-9 is fully addressed in the RDEIR. Potential impacts to on-site endangered and other biological resources are identified and feasible mitigation is provided to protect, minimize, or avoid potential impacts in accordance with applicable laws and regulations.

Policy 8-27 is addressed by the fact that the Project would permanently protect and preserve approximately 727 acres of the Project Site through the dedication of these lands in fee to the EBPRD.

Response to DAN-44
Please refer to Response to DAN-13, above.

Response to DAN-45
The California black walnut trees located on the Project Site are not considered historic as outlined by CEQA Guidelines, as explained more fully in RDEIR Section 3.5, Cultural Resources, at 3.5-14. Therefore, the removal of these trees would not result in a substantial adverse change, and would not result in a significant cultural resources impact.

Response to DAN-46
Mitigation Measure CUL-1 (which includes language typically seen addressing these types of cultural resource impacts) references implementation of measures in accordance with CEQA Guidelines Section 15064.5, and would adequately reduce impacts to less than significant levels because it requires implementation of Archaeologist recommendations to ensure that no adverse change in the significance of a historical resource would occur. Furthermore, RDEIR Section 3.5, Cultural Resources, page 3.5-13-14, has been revised to provide additional information regarding the lack of known historical resources on-site and the unlikely possibility of discovering such resources on-site. This additional information merely clarifies and amplifies the analysis, and does not trigger recirculation.

Response to DAN-47
As shown in Section 3.5, Cultural Resources, page 3.5-16, Mitigation Measure CUL-3 has been updated to include a source for Society of Vertebrate Paleontology Standards for reference. Such mitigation is consistent with the need to reduce impacts to less than significant, should a paleontological resource be inadvertently discovered during construction. This additional information merely clarifies and amplifies the analysis, and does not trigger recirculation.

Response to DAN-48
The appendix has been reviewed. Responses to concerns outlined therein can be found in Response to Comment DAN-19, 50, and -51. An exhibit has been added to the RDEIR showing areas of landslides on the Northern Site (Section 3.6, Geology, Exhibit 3.6-1). This additional information merely clarifies and amplifies the analysis, and does not trigger recirculation. Furthermore, the outlined geotechnical concerns are addressed through Mitigation Measure GEO-1, the

implementation of which would ensure the proper remediation of all on-site landslides and landslide potential areas. Refer to RDEIR Section 3.6, Geology, page 3.6-14. Furthermore, the Contra Costa County Ordinance Code requires a site-specific soil report and incorporation of recommendations as conditions of approval.

Response to DAN-49
Comment has been noted. Implementation of Mitigation Measure GEO-1 (which includes industry-standard language typically seen in CEQA documents addressing this type of geotechnical impact) would include a site specific geotechnical evaluation, the recommendations of which would be implemented on the Project Site, specific to on-site conditions. These recommendations would include, as appropriate, the recommendations provided in the Preliminary Geotechnical Report. In addition to Mitigation Measure GEO-1, the GHAD is referenced RDEIR Section 3.6, Geology, page 3.6-7, and included as part of the Project, and would ensure continued maintenance of adjacent hillsides in order to abate potential geological hazards once remediation efforts are complete. As such, landslide impacts would be assessed as a part of the design-level geotechnical evaluation and recommendations would be implemented to address site-specific features.

Response to DAN-50
The Project's consistency with General Plan Policies 10-22, 10-24, and 10-26 have been addressed in RDEIR Section 3.6, Geology, on page 3.6-16. Policies 10-28 and 10-29 were not addressed, as Policy 10-28 requirements are "general" and therefore not strictly applicable the Project. Policy 10-29 limits development on 'very steep hillsides'. The vast majority of the Project is located on slopes of less than 26 percent, and therefore it would not be considered to be located on very steep hillsides. A new Exhibit 2-15, Slope Analysis, is added to the RDEIR to provide additional support for this discussion. See Section 4, Changes to the RDEIR/Errata, for the new Exhibit. This additional information merely clarifies and amplifies the analysis, and does not trigger recirculation.

Response to DAN-51
Information regarding SRVFPD's Exterior Hazard Abatement Program has been added to Impact HAZ-5 on page 3.7-17 in the RDEIR (Hazards and Hazardous Materials). Furthermore, the Exterior Hazard Abatement Program is codified and would be imposed on the Project as a matter of course; as such, its requirements and the Project's compliance do not need to be required as mitigation. This additional information merely clarifies and amplifies the analysis, and does not trigger recirculation.

Response to DAN-52
The Potential Recycled Water Pipeline option has been removed from the Project, and as such, noise impacts related to its construction would not occur. Refer to revisions made to Section 3.10, Noise, of the RDEIR.

Response to DAN-53
A portion of Mitigation Measure NOI-1a, on page 3.10-29 of the RDEIR (Noise) includes an explanation of how noise complaints would be handled. As indicated, an on-site complaint and enforcement officer would be required to be available to respond to and track complaints. Mitigation Measure NOI-1a of the RDEIR has further been updated to include potential avenues for addressing complaints. Refer to RDEIR Section 3.10, Noise, page 3.10-28. This additional information merely clarifies and amplifies the analysis, and does not trigger recirculation.

Response to DAN-54
The discussion of interior noise levels within 216 feet of Camino Tassajara has been revised for clarification purposes in the RDEIR (Section 3.10, Noise, page 3.10-25). Mitigation requiring air conditioning or ventilation is a standard, industry accepted method of ensuring interior noise levels can be maintained. Note that, as a design feature, all residences would include a heating/air conditioning ventilation system. Nonetheless, Mitigation Measure NOI-1b requires such provision for all residences within 216 feet of Camino Tassajara to further ensure that acceptable interior noise levels can be continually met. This additional information merely clarifies and amplifies the analysis, and does not trigger recirculation.

Response to DAN-55
Policy 11-2 is addressed in RDEIR Section 3.10, Noise, on page 3.10-25 in the discussion regarding on-site traffic noise levels. Furthermore, as shown in Table 3.10-8, the County considers environments with noise levels between 60 dBA and 70 dBA to be conditionally acceptable. Policy 11-4 is addressed on RDEIR page 3.10-26, which references Mitigation Measure NOI-1B, which would reduce on-site traffic noise impacts to meet the County's interior residential living space noise level standard.

Response to DAN-56
An explanation of long-term noise measurement location selection has been added to RDEIR Section 3.10, Noise, page 3.10-9. This additional information merely clarifies and amplifies the analysis, and does not trigger recirculation. A long-term noise measurement on the Northern Site was not necessary as the Southern Site measurement provided a more conservative baseline against which to compare the compatibility of the proposed Project because, as stated on page 3.10-9 of the RDEIR, "The Southern Site has fewer vertical and horizontal changes in the roadway than the Northern Site, which typically lends to higher average travel speeds. In addition, the topography of the Southern Site is flatter adjacent to the roadway, which permitted a more direct line of sight reading of traffic noise levels than would have been permitted at the Northern Site. Therefore, the resulting measured noise levels reflect a more conservative baseline against which to compare the compatibility of the proposed Project. In addition, conducting a long-term noise measurement on the Northern Site would not change the conclusions of the impact of the proposed Project on off-site receptors, as this type of impact is determined through modeling of project-related traffic and stationary noise source.

Response to DAN-57
During its final review of the proposed Project, the SRVFPD would review Project plans to ensure appropriate access and compliance with applicable codes and standards have been included. Such compliance would also be checked prior to provision of occupancy permits. Because compliance is compulsory under governing laws and regulations, additional mitigation is not necessary.

Response to DAN-58
General Plan Policy 7-59 is a goal, not a mandated, rigid regulation. A letter from the Sheriff's Office has been included in the RDEIR (Appendix K). This additional information merely clarifies and amplifies the analysis, and does not trigger recirculation. The Project applicant would be required, as a condition of approval, to pay all applicable review and development impact fees to the Sheriff's Office.

Response to DAN-59
According to CCLAFCO's Law Enforcement Municipal Service Review, Danville contracts with Contra Costa County Sheriff's office for police services. Danville Police Department currently meets the Priority 1 response time standard with an average priority one response time of 5 minutes and 36 seconds including dispatch time. The Department meets the maximum 20 minute response time for Priority 2 and 3 calls. Therefore, mutual aid calls to the Project Site could be effectively served.

Response to DAN-60
The Project does include on-site facilities, and to the extent these facilities would result in significant environmental impacts, these are covered by feasible Mitigation Measures throughout the EIR. Impacts are stated in such a way to confirm that no new off-site facilities would be required.

Response to DAN-61
CEQA provides that an EIR's discussion of cumulative impacts should be guided by standards of practicality and reasonableness. Although a cumulative impacts analysis is required in the EIR, the EIR's discussion of cumulative impacts need not provide the same level and detail as is provided for project-specific effects (CEQA Guidelines § 15130(b)). A lead agency is not required to provide evidence supporting every fact underlying the EIR's discussion of cumulative impacts, nor is an exhaustive analysis required (see, e.g., *Association of Irritated Residents v. County of Madera* (2003) 107 Cal. App. 4th 1383, 1404). An EIR's evaluation of cumulative impacts need not be exhaustive, and need only provide such information as is reasonably necessary for informed decision-making.

CEQA Guidelines Section 15130 requires evaluation of past, present and probable future projects. Existing conditions were assessed within the RDEIR for each topical area. This is relevant to determining whether a cumulatively significant impact would occur, or whether such an impact may already exist even without the addition of the Project (due to other "past" and "present" projects). For example, existing noise levels, air quality and traffic volumes were assessed. The RDEIR concluded that the Project would result in cumulatively significant and unavoidable impacts related to air quality and traffic. For all other impact areas, either no cumulatively significant impact was found to exist in the first place, or the Project's contribution to such impacts would not be cumulatively considerable with implementation of mitigation or compliance with mandatory regulations (or mandatory payment of impact fees). As explained more fully in the RDEIR's cumulative analysis for various topical areas, it is reasonable to assume that other development projects in the vicinity would also be required to implement similar mitigation and/or comply with mandatory regulations as the proposed Project, and would be subject to similar development impact fees that allow individual projects to mitigate their "fair share" contribution to cumulative impacts.

Response to DAN-62
The cumulative discussion in the RDEIR acknowledged where there was an existing cumulatively significant impact (i.e., without the Project). For example, the discussion of cumulative biological resources impacts states: "Recent development patterns and growth in the area that are due to the loss of potential habitat for rare species have resulted in an existing cumulatively significant impact to biological resources." The discussion then explains how Mitigation Measures BIO-1a through BIO-1k, BIO-3 and BIO-5 would render the Project's contribution to this impact less than cumulatively considerable. It is reasonable to assume other development projects in the vicinity would be

required to implement similar mitigation and/or comply with mandatory regulations as the proposed Project, such as the County's tree protection ordinance.

Response to DAN-63
See Responses to DAN-61 and -62. The cumulative discussion in the RDEIR acknowledged that there is an existing cumulatively significant impact related to loss of farmland within the County. However, as explained in more detail in the RDEIR (Section 4, Cumulative Effects, at p. 4-4), the Project's contribution to this existing impact would not be cumulatively considerable, as the Project Site does not contain any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance under the FMMP or the Land Evaluation and Site Assessment Model (LESA) method for evaluating these types of impacts. On-site soils are rated Grade 4 (Poor) to Grade 6 (Nonagricultural) by the Storie Index, and Class 4 (very severe limitations) to Class 7 (unsuitable for cultivation, uses limited to grazing, forestland, or wildlife habitat) by the Natural Resources Conservation Service (NRCS) Non-irrigated Capability Class. The availability and practicality of on-site irrigation is limited, and existing topography further limits the Project Site's use for field crops.

Nonetheless, the Project Site would be rezoned to a P-1 zone that would allow existing agricultural operations such as grazing to continue on all portions of the Project Site outside of the Residential Development Area. The majority of the Project Site would be permanently preserved as grazing, open space, park, recreation, wetland, scenic, mitigation lands, and other nonurban uses, which is consistent and compatible with adjacent agricultural uses and would not create pressure to convert agricultural lands to urban uses. As such, it is unlikely that the proposed Project would result in the conversion of adjacent farmlands to non-farmland use. This information, along with the discussion contained in RDEIR Section 3.2, Agricultural Resources, provides ample substantiation to support the conclusion that the Project's incremental effects with regard to loss of farmland are not cumulatively considerable.

Response to DAN-64
As stated in CEQA Guidelines Section 15126.6 (c), factors that may be used to eliminate alternatives from detailed consideration in an EIR include failure to meet most of the basic project objectives, and infeasibility.

An alternative aimed at reducing the Project's transportation impacts to less than significant is infeasible because the impacted freeway segments already operate at unacceptable LOS and the addition of any amount of traffic would result in a significant unavoidable impact.

Mitigation provided in the RDEIR would functionally reduce the actual impacts to several of the affected intersections. However, because the intersections are not under the jurisdiction of Contra Costa County, the County cannot control implementation of the mitigation and thus, as a technical matter, mitigation cannot be assured. Therefore, despite there being feasible mitigation available and identified in the RDEIR, for purposes of a conservative analysis, such impacts are considered significant and unavoidable. Reducing the Project size and related traffic volumes would not change these conclusions.

Response to DAN-65
Off-site alternatives would not necessarily be more likely to reduce significant unavoidable impacts; rather, as explained in the RDEIR, it is anticipated that they would simply shift Project traffic and

related impacts to other locations. Consistent with CEQA requirements, the selection of alternative locations considered in the EIR was appropriately limited to sites similar to (within in or adjacent to the ULL on agriculturally designated land) and in proximity of the Project Site (in the San Ramon, Danville, Blackhawk area). These limitations were established to ensure alternative sites considered could potentially meet at least some of the Project objectives, including the preservation of agricultural land, provision of a buffer between urban and non-urban uses, and provision of substantial amounts of permanent open space. As such, the off-site alternatives considered but rejected from further analysis were identified to carefully balance the potential to reduce impacts, the ability to provide land area for a project similar to that of the Project, and the ability of a residential development on that site to meet Project objectives. Further discussion of reasoning behind the criteria used for selecting alternative locations is provided in RDEIR Section 5, Alternatives to the Proposed Project, page 5-10.

Response to DAN-66
If the Project were to be located at the Norris Canyon Alternative site, the majority of the Project's 1,635 total daily trips would likely go through the Bollinger Canyon Road and Norris Canyon Road intersection, thereby likely requiring mitigation. Even so, relocation of the Project to this alternative site would not be likely to reduce the significant unavoidable impacts that would occur to freeway segments, because project trips would still be likely to use those routes. As indicated in Response to DAN-65 the impacted freeway segments already operate at unacceptable LOS and the addition of any amount of traffic would result in a significant unavoidable impact. As such, mention of potential impacts at the Bollinger Canyon Road and Norris Canyon Road intersection are just one reason why the alternative site would not result in reduction of impacts.

Response to DAN-67
As indicated in RDEIR Section 5, Alternatives to the Proposed Project, a full analysis was not provided for the Norris Canyon Site due to the overarching factor that the Project applicant does not own, control, or otherwise have access to this site, and the ability of the applicant to gain ownership of this site is speculative. This renders this alternative site infeasible, and therefore it was proper under CEQA to exclude it from further consideration.

Response to DAN-68
See Response to DAN-67.

Response to DAN-69
Neither the County General Plan nor the County Ordinance Code requires inclusionary housing on-site as part of adjusting the ULL, nor do they prohibit the use of the in-lieu fee option regardless of the location of the project in relation to the ULL. As indicated in Response to DAN-4, the RDEIR appropriately delineates the urban and non-urban proposed uses consistent with the applicable County Ordinance Code provisions and General Plan policies. Relocation of such uses to within the 30-acre Residential Development Area is not necessary.

As indicated in Response to DAN-19, implementation of Mitigation Measure GEO-1 would ensure remediation actions would occur to stabilize existing and potential future slides. Avoidance of such areas is not necessary.

Response to DAN-70
As indicated in the Errata of this Final EIR, the Project would not secure more water than necessary to serve the Project. Subject to approval from the EBMUD's Board of Directors, water supply would come from EBMUD's existing entitlements as a result of the implementation of accelerated or expanded water conservation measures in an amount to fully offset Project demand, which would be confirmed by EBMUD's Board and reflected in a binding water supply agreement. Note that Calaveras Public Utility District water is no longer being pursued for Project purposes. Refer to Master Response 1: Water Supply and Distribution for further discussion. As such, the Project would not induce growth beyond the Project through increased water supplies. As described more fully in RDEIR Section 2, Project Description, and the Errata to the FEIR, the vast majority of the Project Site would be permanently preserved for open space and other non-urban uses through the conveyance of 727 acres of land in fee to the EBRPD, which would further assure that no additional utility extension would occur. Note that Calaveras Public Utility District water is no longer being pursued for Project purposes.

Response to DAN-71
The Project no longer proposes to utilize the recycled water option. The 1.8-mile recycled water pipeline along San Ramon Valley Boulevard is no longer proposed. Therefore, no further response is required.

Response to DAN-72
As discussed in the RDEIR (at Section 6.4 Energy Conservation), Project development would require a commitment of resources that would include (1) building materials, (2) fuel and operational materials/resources, and (3) the transportation of goods and people to and from the Project Site. Construction vehicles and equipment, and the transportation of goods and people to and from the Project Site would consume non-renewable fossil fuels such as gasoline and oil. California regulations (CCR Title 13, §§ 2449(d)(3) and 2485) limit idling from both on-road and off-road diesel-powered equipment and are enforced by the Air Resources Board. Despite the increase in energy demand (primarily related to fuel use during construction), Project construction equipment requirements, combined with various applicable local, state, and federal laws and regulations, which limit engine idling times and require recycling of construction debris, would reduce short-term energy demand due to Project construction.

Project operation would continue to expend similar energy resources that are currently consumed within the County. These include energy resources such as electricity, petroleum-based fuels, fossil fuels, and water. Energy resources would be used for heating and cooling buildings, running household appliances, transportation to and from and within the Project Site, and building lighting. Fossil fuels would be the primary energy source for Project construction and operation. This existing, finite energy source would thus be incrementally reduced. However, the Project's energy usage would be on a relatively small scale and consistent with regional and local urban design and development goals for the area. Local and regional energy supplies are adequate to meet the demand of the Project, and would not trigger requirements for additional capacity. As a relatively small residential project, the Project would not have any effects on peak and base period demands for electricity or other forms of energy; energy demand and peak usage would be typical of single-family development and usage patterns, and would not involve the operation of energy-intensive

equipment or machinery beyond typical household appliances. As discussed in RDEIR Section 6, the Project would be constructed to comply with then-current applicable energy standards under Title 24, Part 6, of the California Code of Regulation, which require conservation practices limiting the amount of energy consumed by the Project's buildings. California's Title 24 energy efficiency standards are among the most stringent in the United States, which therefore preclude the possibility that energy usage in structures built to those specifications would be wasteful or inefficient. Furthermore, individual homeowners have a financial incentive to ensure that their energy usage is not unnecessary or wasteful, in the form of lower utility bills.

With regard to transportation energy use requirements, the Project involves the construction of 125 single-family dwellings and related improvements; it is not a transportation-related project or a large-scale infrastructure, industrial, warehouse or logistics project that would involve a high demand for fossil fuels as a component of the project itself. The approximately 595 gallons of fuel consumption per day contained in Table 6-2 represents the estimated fuel demand of the estimated 375 Project residents who would leave their home, commute to work or school or complete shopping trips, and return home each day. It is not feasible to impose mitigation measures on the use of private vehicles, which are governed by Federal standards regarding vehicle fuel efficiency. As greater efficiency standards for passenger cars and light trucks phase in over time, Project residents' vehicles would gradually replace older, less efficient vehicles with newer, more fuel-efficient models. The Project is located directly adjacent to a developed suburban area and would accommodate bicycle and pedestrian access to adjacent areas.

The Project would not result in the wasteful, inefficient, and unnecessary consumption of energy, would not cause the need for additional natural gas or electrical energy-producing facilities, and, therefore, would not create a significant impact on energy resources. No mitigation measures are required.

Response to DAN-73
Refer to Appendix B for consistency statements related to the General Plan Policies and goals identified.

DUBLIN
CALIFORNIA
THE NEW
AMERICAN
BACKYARD

SENT VIA US MAIL AND E-MAIL (john.oborne@dcd.cccounty.us)

June 6, 2016

John Oborne, Project Planner
Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553-4601

Subject: Comments on Tassajara Parks DEIR
Agency Comment Request dated 5/12/2016

Dear Mr. Oborne:

Thank you for giving us the opportunity to review and provide comment on the Draft Environmental Impact Report (DEIR) for the Tassajara Parks Project (formerly New Farm).

The City of Dublin previously submitted comments to your office in response to an Agency Comment Request dated February 26, 2013. These same comments were included in response to subsequent Agency Comment Requests dated February 28, 2014 and February 10, 2015. It does not appear that the DEIR has addressed our previous comments, listed again below and attached for reference.

1. The project will potentially increase traffic along Tassajara Road, Fallon Road, and Dublin Boulevard in the City of Dublin. Prior to initiation of a traffic analysis for the project, please coordinate with the City of Dublin regarding locations of traffic counts and the list of intersections that should be included in the analysis, as well as the trip distribution and the land use assumptions that should be incorporated into the travel demand model. 1

2. The project will potentially generate significant heavy construction traffic on Tassajara Road, Fallon Road and Dublin Boulevard. Such heavy construction traffic is expected during site grading and infrastructure construction activities due to the import and export of construction materials. The City of Dublin may require the developer to obtain an Encroachment Permit for access through the City. In association with the Encroachment Permit, the developer may be required to provide surety bonds to insure against pavement damaged as a result of the project construction traffic on City roads. 2

City Council
925.833.6650
City Manager
925.833.6650
Community Development
925.833.6610
Economic Development
925.833.6650
Finance/IT
925.833.6640
Fire Prevention
925.833.6606
Human Resources
925.833.6605
Parks & Community Services
925.833.6645
Police
925.833.6670
Public Works
925.833.6630

100 Civic Plaza
Dublin, CA 94568
P 925.833.6650
F 925.833.6651
www.dublin.ca.gov

3. will potentially generate significant heavy construction traffic on Tassajara Road, Fallon Road and Dublin Boulevard. Such heavy construction traffic is expected during site grading and infrastructure construction activities due to the import and export of construction materials. The City of Dublin may require the developer to obtain an Encroachment Permit for access through the City. In association with the Encroachment Permit, the developer may be required to provide surety bonds to insure against pavement damaged as a result of the project construction traffic on City roads. 3

If you have any questions regarding the above comments, please do not hesitate to contact me at 925-833-6630, or via email at jayson.imai@dublin.ca.gov.

Sincerely,

Jayson Imai, P.E.
Sr. Civil Engineer

Attachment: City of Dublin comment letter dated March 26, 2013

cc: Gary Huisingh, Public Works Director
Andrew Russell, City Engineer
Obaid Khan, Transportation & Operations Manager

G:\TRANSPORTATION\Regional\New Farm Traffic Study\2016-06-06 Letter on Tassajara Parks Project (formerly New Farm).docx

CITY OF
DUBLIN

100 Civic Plaza
Dublin, California 94568
Phone: (925) 833-6650
Fax: (925) 833-6651

SENT VIA US MAIL AND E-MAIL (john.oborne@dcd.cccounty.us)

March 26, 2013

John Oborne, Project Planner
Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553-4601

Subject: Comments on Tassajara Parks Project

Dear Mr. Oborne:

Thank you for giving us the opportunity to review and provide comment on the Tassajara Parks Project (formerly New Farm). The project site encompasses 771 acres of land in two locations on Camino Tassajara; a 155-acre "Northern" site and a 616-acre "Southern" site. The Northern site proposal includes construction of 158 single-family dwelling units on 30 acres directly east of Tassajara Hills Elementary School. The Northern site also includes a 2.4-acre neighborhood park, a 1.1-acre parking lot for Tassajara Hills Elementary School, a 2.4-acre detention basin parcel, a 1-acre trail staging area, a 0.1-acre trail head, and various other trail improvements. The Southern site proposal includes a 5-acre training facility for the San Ramon Valley Fire Protection District. The remaining project acreage is planned for park, recreation, and open space uses.

The following are comments based upon review of your Agency Comment Request dated February, 26, 2013.

4

1. The project will potentially increase traffic along Tassajara Road, Fallon Road, and Dublin Boulevard in the City of Dublin. Prior to initiation of a traffic analysis for the project, please coordinate with the City of Dublin regarding locations of traffic counts and the list of intersections that should be included in the analysis, as well as the trip distribution and the land use assumptions that should be incorporated into the travel demand model.

2. The project will potentially generate significant heavy construction traffic on Tassajara Road, Fallon Road and Dublin Boulevard. Such heavy construction traffic is expected during site grading and infrastructure construction activities due to the import and export of construction materials. The City of Dublin may require the developer to obtain an Encroachment Permit for access through the City. In association with the Encroachment Permit, the developer may be required to provide surety bonds to insure against pavement damaged as a result of the project construction traffic on City roads.

City Council
(925) 833-6650
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Finance/Admin Services
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Fire Prevention
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Human Resources
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Parks & Community Services
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Police
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Public Works/Engineering
(925) 833-6630

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All-America City
2011

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3. The City of Dublin and Contra Costa County are coordinating on a project to improve traffic safety on Tassajara Road between Windermere Parkway in the County and Fallon Road in the City. Preliminary analyses suggest that to improve traffic safety along this segment, the roadway needs to be realigned near the City and County boundary. Because the Tassajara Parks project will potentially increase traffic along Tassajara Road, a roadway safety review and analysis along this segment shall be conducted as part of the overall project traffic analysis. The City of Dublin would like to participate in the development of the scope of work for this study. 5

If you have any questions in regards to the above comments, please do not hesitate to contact me at 925-833-6630 or via email at andrew.russell@dublin.ca.gov.

Sincerely,

Andrew Russell, P.E.
City Engineer

cc: Gary Huisingh, Public Works Director
Obaid Khan, Sr. Civil Engineer
Jayson Imai, Sr. Civil Engineer

City of Dublin (DUBLIN)

Response to DUBLIN-1
As part of the Traffic Impact Analysis (TIA), Corbin Skerrit of Kimley-Horn and Associates contacted local jurisdictions including the City of Dublin, City of San Ramon, and Town of Danville prior to collecting traffic counts. No response was received from a phone call made to Gary Huisingh at the City of Dublin (see documentation in appendix of Traffic Impact Analysis).

The City of Dublin's regulations regarding traffic studies, including applicable General Plan policies were reviewed. No specific criteria for study intersection selection were found. The City's LOS standards, including those for the downtown area, were included in the TIA. Furthermore, the Project's trip distribution sends only 12 trips to the City of Dublin; such trip increases would be insignificant.

Response to DUBLIN-2
The comment is noted. The applicant would be required to coordinate with the City of Dublin regarding the need for an Encroachment Permit and associated surety bonds to address any damage caused by construction vehicles. Note that the Project consists of the construction of 125 single-family homes and related improvements, far fewer than recent and ongoing residential construction located in the nearby Alamo Creek development and the Groves and Terraces residential developments located within Dublin on Dublin Boulevard.

Response to DUBLIN-3
The commenter repeated comment DUBLIN-2. Refer to Response to DUBLIN-2.

Response to DUBLIN-4
The commenter resubmitted a comment letter dated March 26, 2013. The letter included a summary of the Project and reiterated comments DUBLIN-1 and DUBLIN-2. Refer to Responses to DUBLIN-1 and DUBLIN-2.

Response to DUBLIN-5
As noted on Figure 4 of the TIA prepared for the Project, Project trip distribution at Tassajara Road between Windemere Parkway and Fallon Road would account for only a small portion of total Project traffic. As shown in Table 3-2 below, total traffic at the two intersections would range from approximately 3.83 trips to 21.2 trips. Because the potential traffic increase at these traffic intersections was less than the established threshold of 50 trips, these intersections were not included as study intersections. In general, it is anticipated that the County will continue to coordinate with the City on roadway safety at this location, outside the Project's entitlement process.

Table 3-2: Project Trip Distribution on Tassajara Road between Windemere Parkway and Fallon Road

Column Title	AM In/Out			PM In/Out		
	%	Trips	Total	%	Trips	Total
Windemere Parkway/Camino Tassajara	9%/11%	5.58/15.62	21.2	10%/8%	10/4.88	14.88
Fallon Road/Tassajara Road	2%/3%	2.84/4.26	7.1	2%/3%	2/1.83	3.83
Source: KHA 2016.						

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CITY OF SAN RAMON

2401 CROW CANYON ROAD
SAN RAMON, CALIFORNIA 94583
PHONE: (925) 973-2500
WEB SITE: www.sanramon.ca.gov

July 18, 2016

Mr. John Oborne
Senior Planner
Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Re: Draft Environmental Impact Report (DEIR) – Tassajara Parks Project

Dear Mr. Oborne:

The City of San Ramon appreciates the opportunity to comment on the Tassajara Park DEIR. It is our understanding that the project is proposing to subdivide 30 acres of the 155 acre Northern Site into 125 single family, with an average lot size of approximately 6,000 square feet and the remaining 125 acres to be preserved as open space. The 616 acres of the Southern Site is proposed to accommodate a 5-acre training facility for use by the San Ramon Valley Fire Protection District and a 5-acre school district facility use (not a new school) for use by the San Ramon Valley Unified School District. The remaining 606 acres is to be preserved as open space. 1

In reviewing the DEIR, the City has the following comments:

1. The Environmental Setting section states the posted speed limit on crow Canyon Road is 40 mph. While it will not impact the analyses, the actual posted speed limit is 45 mph. 2
2. The Environmental Setting section also states Dougherty Road is a four-lane minor arterial. Dougherty Road is a six-lane major arterial (three lanes in each direction). If Dougherty Road is coded as a four-lane roadway in the 2013 CCTA Travel Demand Model, this could have an impact on the select zone analysis used to derive the trip distribution. 3
3. There is no mention of the new segment of Dougherty Road south of Bollinger Canyon Road that is set to open in August 2016. The new segment will include three lanes in each direction. The new segment is shown on the select zone model run for 2035; however, it is not apparent how many lanes are assumed for Dougherty Road. 4
4. The Cumulative plus Project Conditions shows a LOS E in the PM peak at the intersection of Crow Canyon Road/Dougherty Road, which is located in the City of San Ramon. In accordance with the City of San Ramon Municipal Code, "the minimum acceptable level of service at arterial intersections shall be the upper bound of LOS D." City of San Ramon staff is not authorized to waive an ordinance requirement. 5

5. The document states that the City of San Ramon had reviewed and approved the final trip generation and trip distribution for the project. The City of San Ramon did not receive the project trip generation and distribution for review and approval. 6

We appreciate the continued dialogue on this project and look forward to cooperatively working together in the best interest of maintaining the character of the Tassajara Valley.

Should have any additional questions or need clarification, I may be reached at (925) 973-2566.

Sincerely,

Debbie Chamberlain
Division Manager, Planning Services

cc Mayor and Members of the City Council
Joe Gorton Interim City Manager
Eric Figueroa, Assistant City Manager

City of San Ramon (SAN RAMON)

Response to SAN RAMON-1
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to SAN RAMON-2
The RDEIR includes the correct 45 mph speed limit for Crow Canyon Road (Section 3.12, Transportation and Traffic, page 3.12-1). This clarification does not substantially modify the EIR's underlying analysis or conclusions. No further response is needed to address the comment.

Response to SAN RAMON-3
RDEIR Section 3.12, Transportation and Traffic, had previously been updated prior to recirculation to reflect the current 6-lane configuration of Dougherty Road. The road was therefore correctly coded in the CCTA Travel Demand Model, which was used in the EIR's traffic analysis. This change merely clarifies and amplifies the EIR's analysis and does not substantively modify the underlying conclusions of the EIR.

Response to SAN RAMON-4
See Response to SAN RAMON-3 above. The CCTA model run, which was used to conduct the Project's traffic analysis, correctly reflects the new segment.

Response to SAN RAMON-5
The RDEIR acknowledges the City's LOS D standard (see RDEIR, at pp. 3.12-33). However, the 2014 CCTA Tri-Valley Action Plan specifies Routes of Regional Significance, which includes Dougherty Road/Crow Canyon Road and incorporates a LOS E standard (rather than LOS D) for those routes. The RDEIR clearly states that, for this analysis, intersections within the jurisdiction of the City of San Ramon are considered significantly impacted if the base case operations are LOS D or better and the Project would degrade operations to LOS E or F, unless it is a Route of Regional Significance, in which case, a significant impact occurs if the base case operations are LOS E or better and the Project would degrade operations to LOS F.

Response to SAN RAMON-6
The City of San Ramon was given the opportunity to review and comment on the traffic study intersection methodology. The City of San Ramon was contacted by Kimley-Horn Associates in February 2015 and again in March 2015, prior to the initiation of traffic counts and analysis. This is noted on page 3.12-9 of the RDEIR. Furthermore, evidence of such contact is provided in the appendix of the Project's Traffic Impact Analysis as included in Appendix I of the RDEIR. The City did not provide any response or input.

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Dublin San Ramon
Services District
Water, wastewater, recycled water

PROJECT APPROVAL CONDITIONS

TO: Contra Costa County
Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553
Attn.: **John Oborne, Senior Planner**

DATE: June 3, 2016

FROM: Dublin San Ramon Services District
Reviewed by: Stanley Kolodzie, Associate Engineer SK

SUBJECT: **GP07-0009, RZ090-3212, SD10-9280, DP10-3008:**
Tassajara Parks Project
Notice of Completion and Availability - Draft Environmental Impact Report

DSRSD has received your Notice of Completion and Availability dated May 12, 2016 for the Draft Environmental Impact Report (DEIR) on the Proposed Tassajara Parks Project.

The location of this project is outside the DSRSD service area and sphere of influence. However, a portion of the "southern site" touches a section of DSRSD's border near the northeast corner of DSRSD's service area. DSRSD has no plans to provide potable water or wastewater services to this project. 1

Thank you for the opportunity to comment. Should you have any questions concerning the above, please contact Stan Kolodzie at (925) 875-2253.

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Dublin San Ramon Services District (DSRSD)

Response to DSRSD-1

The comment is noted. As indicated in RDEIR Section 3.13, Utilities and Service Systems, the Project proposes to obtain potable water service from EBMUD and wastewater service from the CCCSD. Such services would not be requested of DSRSD.

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CALIFORNIA
NATIVE PLANT SOCIETY
East Bay Chapter, www.ebcnps.org
PO Box 5597, Elmwood Station, Berkeley, CA 94705

July 18, 2016

John Oborne, Senior Planner
Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Phone: 925.674.7793
Email: john.oborne@dcd.cccounty.us

Re: Draft Environmental Impact Report for the Tassajara Parks Project

Dear Mr. Osborne:

The California Native Plant Society's East Bay Chapter (EBCNPS) appreciates the opportunity to comment on the 2016 *Draft Environmental Impact Report for the Tassajara Parks Project.* The California Native Plant Society (CNPS) is a statewide non-profit organization that works to protect California's native plant heritage and preserve it for future generations. The Society's mission is to increase the understanding and appreciation of California's native plants and to preserve them in their natural habitat. We promote native plant appreciation, research, education, and conservation through our 5 statewide programs and 34 regional chapters in California. The East Bay Chapter covers Alameda and Contra Costa Counties and represents some 1000 members. 1

Pursuant to the mission of protecting California's native plant species and habitats, CNPS submits the following comments and recommendations for the DEIR:

General Considerations:

Tassajara Parks Project shows itself to have substantially different plans than its predecessor, New Farms. The planning agencies have demonstrated great flexibility in dedicating the majority of acreage to permanent land preservation and readjusting for avoidance of rare alkali plants and habitat on the Northern Site. EBCNPS is satisfied with the bulk of the changes leading to this 2

DEIR, and applaud the open space benefits that would be achieved. In defense of the absolute rarity of the native plants and sensitive natural communities of which they are part, we suggest some vital changes that would implement more complete native plant protections. 2 CONT

The Tassajara Valley has gained even more importance as a botanical hot spot, as the greater Livermore Valley continues to lose alkaline habitat to development. In 2010, the East Bay Chapter of CNPS published a Guidebook to the Botanical Priority Protection Areas of the East Bay. These fifteen protection areas (BPPAs) have been selected as those areas within Alameda and Contra Costa Counties that contain high value botanical resources that should be protected. The guidebook was created with the expert advice of many professional botanists to aid city and county planners in locating important native plant species and communities. The proposed project overlaps the nearby "East Dublin & Tassajara" BPPA and is thus of concern to EBCNPS. This area is recognized by CNPS for priority protection because it contains alkaline soils which support a wide variety of rare and unusual plant species that are worthy of protection. And, as recognized in the DEIR, is an important wildlife corridor connecting open space between Mount Diablo State Park, Los Vaqueros Watershed lands, Doolan Canyon Regional Preserve, and the riparian corridor around Tassajara Creek.

http://ebcnps.org/publications/guidebook-to-botanical-priority-protection-areas/ 3

The following are our more detailed comments regarding further protections for plants:

Plant surveys are robust, but missing key characterization elements:
We recognize that surveys periods between the two hired consulting agencies covered a wide range of time periods, and that each date and location were noted carefully according to proper protocol. We appreciate the special consideration given to special-status plant species occurring on the proposed project site, Congdon's Tarplant, or *Centromadia parryi* ssp *congdonii*, and San Joaquin Spearscale, or *Etriplex joaquinana*. The resources reviewed for the project and in the Biological Resource Analysis peer review cover a broad expanse, including: aerial photos and topographic maps; the United States Fish and Wildlife Service's (USFWS's) Information, Planning, and Conservation System (USFWS 2015a) list of special-status species that are known to occur in the vicinity of the Project Site; the California Department of Fish and Wildlife's (CDFW's) California Natural Diversity Database (CNDDB) for the Diablo and Tassajara 7.5-minute USGS quadrangles (CDFW 2015); California Native Plant Society's (CNPS's) Inventory of Rare and
Endangered Plants (CNPS 2015) for the Tassajara 7.5-minute USGS quadrangle and surrounding quadrangles; and the USFWS's Critical Habitat Data Portal (USFWS 2015b).

However, one resource was missing that we highly recommend. Many of the surveys do not evaluate for locally rare plants as documented by EBCNPS' Rare, Unusual, and Significant

Plants of Alameda and Contra Costa Counties (Lake, 2016) observational record database. This database tracks locally rare plants within our two counties, which lends an additional lens of preservation urgency to the information provided by the statewide CNPS Inventory database. A full description of the EBCNPS rarity ranking system, along with full database access, can be found online.

The DEIR's Table 3.4-1 does allow for additional potential special-status plant species, but misses out on several that our chapter recognizes. Attachment 1 of this comment letter, Table of Locally Rare Plants in Tassajara, shows that a quick search lists 40 species with observational records in the Tassajara area, only with some overlap with Table 3.4-1. These locally rare plants are required by CEQA for evaluation. Although survey dates seem to encompass a wide range of months, it is unclear whether important areas of the entire project site acreage (inclusive of Northern and Southern sites) were surveyed during blooming periods for many of these locally rare plants. It seems that many surveys since the New Farms proposed project seemed to focus on "mapping of known resources" and the footprint of the planned housing project, located at the 30 acres of the Northern Site's southwest corner. Accounting for only the CNDDB records and Statewide CNPS Inventory records are insufficient for a full biological account in the botanically rich Contra Costa County. We recommend inclusion of the Rare, Unusual, and Significant Plants database in site descriptions and impact considerations. 3 CONT

Buffers around alkali wetland and complete protections are undefined

The proposed project's "Landscape Development Plan" document shows major impacts surrounding the Westernmost mapped existing wetlands, which are supposed to "remain and be protected" along Camino Tassajara. It is difficult to imagine sufficient protection when areas outside of the proposed housing footprint include plans for a major roadway entry immediately adjacent to the wetland, a staging area including picnic area, two bathrooms, 22 paved parking spaces, and a "rural transitional planting" of valley oaks.

An alkali wetland is even more sensitive to the condition (pH, salts, pollution, etc) of its source water than other types of wetlands. Wetlands depend on the sheet flow and water movement through the lands around them, as they reach the wetland. It is not itself a catch-all basin, but actually sensitive to the state of pollution of intake water. Water flow off of paved surfaces is higher than rain water naturally flowing through and over this land for hundreds of years, contributing to the formation of a wetland at this particular spot. Runoff from road and parking lots, roadside plantings, and plumbing installations would inherently change the hydrology of the currently existing wetlands such that the different conditions will predictably lead to this wetland deteriorating and disappearing. Ideally, not developing at this site at all would likely better preserve the wetland. Education about the interesting aspects of alkali habitat and wetlands and the importance of this vegetation diversity as habitat for complete ecosystem cycling could be thoughtfully incorporated into a publicly viewed educational plaque or pamphlet distribution. We 4

recommend expanding the buffer zone around the wetlands by placing paved surfaces farther away, and removing planned plantings closest to Camino Tassajara and the wetlands.

Within all the precise measurements portrayed on the Landscape Development Plan maps, there does not appear to be any measurement declaring the buffer distance from wetlands to proposed buildings or landscape plantings. The DEIR documents do not state the anticipated buffer measurements around the existing wetlands, or the existing mapped special-status plant species. The establishment of buffers is required in the Contra Costa County General Plan and is standard protocol recommendation amongst any agency with jurisdiction of Waters of the United States. We recommend buffering a minimum of 200 feet from either side of the existing wetland, which would better protect the contiguous documented rare plant species and the wetland, and inclusion of fencing to surround the sensitive habitat.

4
CONT

Open space preservation acceptable uses and mitigation plans

We approve of the indication of good faith implied by dedication more than 90% of land use to permanently open space. Although the Tassajara Parks Project is overall greatly improved over the previously proposed New Farms Project on the same property, we would desire further improvements to fully account for reduced impact to the rare plant and community populations on the Northern parcel.

Most proposed uses listed for protected open space lands at the Southern Site are consistent with protecting the rare biological resources there, and some are not appropriate given the uniqueness of this site. Preservation in perpetuity is the only acceptable option. The DEIR declares in the project introduction and elsewhere that the "remaining 609 acres would be permanently protected and preserved for nonurban uses such as parks, recreation, open space, agriculture, grazing, scenic, wetland preservation and creation, and habitat mitigation." From this list of proposed allowable uses, those consistent with preservation goals include minimally impactful parks and recreation uses, open space, grazing that does not overgraze and decimate native plant resources, scenic uses, and wetland preservation. Proposed uses such as wetland creation and habitat mitigation can be successfully integrated into a preservation area, if well-considered caution is employed for the mitigation's own impacts on the surrounding landscape.

5

Leaving this land open for agricultural use (which is not a current use) leaves the door open for potentially incredibly damaging projects to the rare biological resources documented. For example, planting a vineyard across this entire preserve would be an acceptable "agricultural" use, but would remove special-status plant species and drastically change local hydrology, forever damaging instead of forever preserving the surrounding plant communities, and all without the benefit of CEQA review. Additionally, equestrian and bike trail uses entail their own set of unacceptable impacts. We support preserving this property in perpetuity, and want to see agriculture removed as an optional future use.

Since mitigation on southern site is planned, the full impacts of which were not accounted for in the multiple survey visits that just concentrated on the housing footprint, a full accounting for a southern site mitigation plan and potential impacts to wildlife, endangered and locally rare plants, and sensitive natural communities, is mandatory.

Preliminary proposed mitigation measures listed mention that mitigation for wetlands impacted by this project will include creation of new wetlands (equaling at a minimum the acreage lost due to the project) on site, at the Southern Site portion of the proposed project. The DEIR considers but does not describe what effects the creation of these mitigation wetlands would have on the plant communities and animal habitat of the site where mitigation is proposed. These impacts need to be considered and mitigated for as part of the Final EIR. The Southern Site is considered part of the entire proposed Project Site, and the impact on these Southern Site botanical resources need to been accounted for. 6

We also request that the proposed Habitat Management Plan, for wildlife or plants, is presented well before the required 30 days before planned construction start. Our chapter and the public requires time for viewing and comment on this supplementary document to allow opportunity for revision, with significant time before construction begins. 7

Project conflicts with General Plan remain unresolved in DEIR

The Contra Costa County General Plan outlines the most significant ecological resource areas in the county as defined by three separate categories: (1) areas containing rare, threatened, and endangered species; (2) unique natural areas; and (3) wetlands and marshes (page 8.4 of the Conservation Element). The Tassajara Valley area solidly qualifies as a significant ecological resource within all three categories. The mapped seasonal alkali wetland in the proposed project area is valuable and rare in Contra Costa County, and cited throughout virtually all of Chapter 8 of the county General Plan Conservation Element as a priority conservation area (Table 8.1 Inventory, item 29; and entire document; 2010). The Tassajara Parks Draft EIR insufficiently addresses applicability of the project as outlined in the General Plan Conservation Element Goal 8-A to 8-E, and Policy 8-6 to 8-28. This proposed project violates nearly every conservation goal and policy outlined in the General Plan. We find the consistency determination responses to be both insufficient and repetitive. 8

It is an insufficient response to simply state that "many of the policies presented in the General Plan are relevant to the analysis," (3.4-41) without defining how the project plans to avoid or resolve each violation of General Plan conservation objectives. Every other discussion under "Applicability to Proposed Project" sections within the 3.4.2 - "Regulatory Framework for Native Wildlife, Fish, and Plants" section, merit more than one sentence addressing the complex relationship of the proposed project to the much-related policy. Table 3.4-2 simply repeats

answers to nuanced and different listed Contra Costa County conservation goals. The Contra Costa County General Plan is so inextricably linked to this proposed project, that we demand an improved analysis of their joint applicability. Please also see our objections to all the proposed allowable uses for the "permanently protected and preserved" Southern Site acreage, elsewhere in this comment letter.

Thus, stating in DEIR Section 3-09, Land Use, that the Project is consistent with the General Plan and "would not conflict with any applicable provisions of the Contra Costa General Plan," is misleading and invalid. As is Impact BIO-5, stating that "the Project would not conflict with local policies or ordinances protecting biological resources," and Impact BIO-2, which states, "Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California DFW or USFWS." The CEQA Guidelines, Appendix G Environmental Checklist specifies that land use impacts are significant when the conflict with a land use plan with jurisdiction over the project (in this case, the Contra Costa County General Plan). This is beside our other concerns mentioned in this comment letter, on the actual full acreage impacts of this development footprint existing beyond 30 acres. Significant impacts to Waters of the United States as acknowledged in Impact BIO-3, also is unacceptable under the General Plan. We request a revision to impact conclusions based on these considerations. 8 CONT

Also, "Impact BIO-3" states "Project may have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc) through direct removal, filling, hydrological interruption, or other means," and impact compensation is planned at 2:1 creation to impact for a new 0.8 acre wetland. We appreciate the mitigation consideration, and request that the importance of the wetland in congruence with its sensitive natural community status, and the fact it contains documented special-status plant species, influence the consideration of an increased mitigation ratio of at least 3:1. This higher ration is currently proposed in the DEIR for California Tiger Salamander and San Joaquin Kit Fox. This type of impact consideration to Congdon's Tarplant and San Joaquin Spearscale rare species should be part of Contra Costa County's Conditions of Project Approval, and we look forward to viewing maximum allowable mitigation ratios in the Biological Opinion. 9

Alkali habitats and their vegetation are rare and valued in Contra Costa County

An alkali wetland is not pretty to the untrained eye, as much as a designed and manicured landscape is glorified, but the plants that do grow in alkali soil are specially adapted to the salty environment. Alkaline habitat native plants typically do not bloom with showy displays of color, but their botanical richness is well documented, while also still containing undocumented diversity and insight into California history. This inherent diversity needs to be fully valued in the Final EIR for this project. An expanded description of the value our organization places on 10

such diversity can be found in our publication, Guidebook to Botanical Priority Protection Areas of the East Bay (Bartosh, 2010), note especially the section titled East Dublin & Tassajara. Against these odds of invasive grass and thistle invasion, heavy grazing, and localized drainage changes from close by Camino Tassajara, this alkali wetland in the Tassajara Parks Proposed Project Site has continued to persist, and it needs more protections than are currently offered. 10 CONT

Direct impact issues remain in the current DEIR and require resolution in order for the public to fully assess the proposed project impacts. Cover data for both Congdon's Tarplant and San Joaquin Spearscale is vaguely averaged range of numbers of plants per meter, and actual or estimated population count numbers are not provided (3.4-14). In proposed impacted areas, overlap of the proposed development footprint with mapped special plant polygons (Exhibit 3.4-7) is not quantified with acreages or population numbers. Comparative cover between Northern site and Southern site populations of San Joaquin Spearscale and Congdon's Tarplant is also not given. From the provided information, it is unclear how to calculate and asses the actual impact to the two plant species in the proposed development footprint. Because impacts to Congdon's Tarplant and San Joaquin Spearscale cannot be properly assessed with the given data, the impact to populations inclusive over the entire Northern and Southern Site acreages are potentially highest at this proposed site, if the population at the proposed housing site was the highest and densest of any on the total property acreage. This would be an unacceptable impact given the plants' rarity. This lack of description is insufficient according to CEQA and needs to be addressed in the Final EIR. 11

Is this area a statewide protected (level S2) *Centromadia pugens* Herbaceous Alliance, a sensitive natural community as defined by the industry standard publication, Manual for California Vegetation, 2nd edition (MCV) (Sawyer, 2009)? The existence of *C. pugens* is not listed in the DEIR. Is this because it is not there? We are unclear whether *C. pugens* was noted at all in the area, whether and how much it co-occurs with the rarer *C. parryi* ssp *congdonii*, and whether the existence of this alliance was appropriately considered given the many factors that would otherwise qualify this plant community under this alliance category. Were other sensitive natural communities considered, specific to salt marsh or alkaline communities, as required by CEQA? 12

Annual grasslands and alkali wetlands contain valuable habitat for rare and native plants. Three plant communities are listed for the Project Site in the Biological Resources (3.4-2) as non-native annual grassland, riparian woodlands, and wetlands, with the dominant plant community described as grazed, non-native annual grassland. The characterization of all vegetation on the project site needs to follow widely accepted names and definition as outlined in the MCV (2009), in order to properly assess existence of plant resources and proposed impacts upon them according to their rarity and value. 13

Hydrology of valuable alkali wetland will be irreversibly changed

Indirect impact issues also remain in the current DEIR and require resolution in order for the public to fully assess the proposed project impacts. A landscape- wide change to this wetlands' hydrology will place worsening odds against its survival. A comprehensive monitoring and adaptive management plan is needed to address the full range of impacts this wetland will suffer, which undoubtedly include: weedy invasions; reduction of downstream rare native *Downingia* pool communities; hydrology changes such as urban pollution runoff and groundwater changes; and other potential impacts which are convoluted in the DEIR and thus need clarification to accurately assess, as listed elsewhere in this letter. 14

Changing the hydrology on three sides of a wetland inherently alters the sheet flow hydrology, thus changing the composition of the partnered rare and valuable landscape. The offered Landscape Development Plan does not make it clear whether the "adjacent detention basin," East of the proposed houses and North of the mapped wetlands, overlaps with valuable alkali soils and sensitive natural community resources? How much of the proposed detention basin acreage overlaps and permanently impacts the known and mapped populations of Congdon's Tarplant and San Joaquin Spearscale? Changing the hydrology of this area will affect not only the wetlands themselves but their associated native plant species that are uniquely adapted to the area's current hydrologic conditions. Replacement of alkali wetlands in this area actually impossible due to the specific soil conditions required for its existence in saline effected clays. We are skeptical of feasibility and potential success of mitigating alkali wetlands. These impacts must be considered in a supplemental document. 15

As a general policy, our organization supports impact avoidance over impact- driven mitigation. However, should full avoidance be infeasible and impacts to the alkali wetland prove unavoidable, we recommend protection and mitigation measures that include establishing baseline groundwater measurements using a standard protocol metering system with a regular plan to continue monitoring data to evaluate surface hydrology changes, and flexibility to adapt management plans to preserve as close to baseline measurements as possible. Similarly, we also recommend evaluating a full baseline plant community characterization, with a regular plan to continue monitoring for the optimal health of the impacted native and rare plants and their natural community. We would also favor implementation of education programs for the potentially impacted native and rare plants, conceptually similar to proposed education listed in Impact BIO-1 of the DEIR for the California Tiger Salamander. Education would assist protections enforcement amongst contractors working in the area. An education program on the uniqueness of this habitat would also benefit the public's understanding of the area's importance and assist with long- term protection, and we request implementation of such a plan. 16

Urban Limit Line expansion is not demanded, desired, or justified 17

Although not our area of expertise, we recognize that the Urban Limit Line (ULL) exemption still presents an issue with this proposed project. The 30 acre exception to the ULL granted in the General Plan ordinances by a 4 of 5 vote by City Council is meant as an exception when direly required. This project does not seem to fit those requirements. Our general concern is the precedent set by such an exception. More specifically, we are concerned likelihood of substantial environmental damage stretches to all surrounding graded areas. 17 CONT

The Tassajara valley area is valued for an eventual permanently preserved connection with neighboring Alamo Creek Kawar Valley Open Space, Hidden Valley Open Space, Sycamore Valley Open Space, Mount Diablo State Park, and Los Vaqueros watershed. We appreciate the appropriate consideration in the DEIR that both the Northern Site and the Southern Site act as a regional wildlife corridors to dedicated open space areas. Will the "Northern Preservation Area" (as named in Appendix C) also receive status for permanent preservation, via deed restriction, easement, or fee title transfer to East Bay Regional Parks District (EBRPD)? When defining future ownership of this area, an undefined term or acronym (GHAD) is used. Please define this term and keep the public updated of option agreements for all acreage. 18

We do understand it is the county's prerogative to reassess the ULL every 5 years, and that it is up for reassessment in 2016. We ask that the many Contra Costa County measures supporting open space and enforcement of the ULL, which were put before the voting public and confirmed as priorities by those voters many times over, are considered with gravity. 19

Conclusions:

After reviewing the document, EBCNPS finds that DEIR for the proposed Tassajara Parks Project is inadequate in identifying all the impacts of this project and in mitigating for acknowledged impacts, and that it fails to uphold the principles of the 2000 General Plan for the County of Contra Costa. The lack of clarity in areas and inadequacies of this document need to be remedied and an updated Final EIR, or supplemental EIR, document needs to be released so that the impacts of this project can be properly understood and planned for. 20

Thank you for your consideration of the above comments. Please do not hesitate to contact me with questions at conservation@ebcnps.org .

Sincerely,

(Submitted electronically)

Karen Whitestone
Conservation Analyst

California Native Plant Society, East Bay Chapter

ATTACHMENT 1: TABLE OF LOCALLY RARE PLANTS IN TASSAJARA

East Bay CNPS rarity rank	California rarity rank	Scientific Name	common name	habitat	blooming period
C		Allium unifolium	one-leaved onion	Chaparral, Forest	May-Jun
A1	CEQA	Amaranthus palmeri	Palmer's amaranth	Miscellaneous	Aug-Nov
B		Anemopsis californica	yerba mansa, lizard tail	Miscellaneous Wetlands	Mar-Sep
A2	CEQA	Atriplex argentea var. expansa	silverscale	Alkali Areas	Jul-Nov
*A2	1B.2 S2(CEQA) G4T2	Centromadia parryi subsp. congdonii	Congdon's Tarplant (formerly Hemizonia parryi ssp. congdonii)	Alkali Areas, Grassland (Annual or Perennial), Miscellaneous Wetlands	Jun-Oct
C		Collinsia sparsiflora var. collina	few-flowered blue-eyed Mary	Chaparral, Grassland (Annual or Perennial), Woodland	Mar-Apr
B		Corethrogyne filaginifolia	California aster (formerly Lessingia filaginifolia)	Grassland (Annual or Perennial), Scrub (Coastal or Interior), Woodland	Jul-Nov
A1	CEQA	Cuscuta indecora var. indecora	large-seeded dodder, pretty dodder	Miscellaneous	Jun-Nov

A1	CEQA	Cuscuta occidentalis	California dodder (formerly C. californica var.)	Chaparral, Grassland (Annual or Perennial), Miscellaneous	Mar-Sep
B		Downingia pulchella	flat-faced downingia	Vernal Pool	Apr-Jun
C		Epilobium densiflorum	dense-flowered boisduvalia	Freshwater Marsh, Riparian	May-Oct
A1	CEQA	Eriogonum fasciculatum var. foliolosum	leafy California buckwheat, California buckwheat	Open Dry Slope	-
*A2	CEQA	Extriplex joaquinana	San Joaquin spearscale, San Joaquin saltbush	Alkali Areas, Grassland (Annual or Perennial), Miscellaneous Wetlands	Apr-Sep
*A2	1B.1 S1.1(CEQA) G1	Juglans hindsii	Northern California black walnut, Northern California black (formerly J. californica var.)	Riparian	Apr-May
B		Lasthenia glabrata subsp. glabrata	yellow-ray goldfields	Alkali Areas, Vernal Pool	Mar-May
B		Lepidium latipes	dwarf peppergrass	Alkali Areas, Vernal Pool	Mar-Jun
A2	CEQA	Limosella acaulis	southern mudwort	Miscellaneous Wetlands	May-Oct
B		Lomatium caruifolium var. caruifolium	caraway-leaved lomatium	Grassland (Annual or Perennial), Vernal Pool, Miscellaneous	Mar-May
B		Lupinus pachylobus	big pod lupine	Miscellaneous	Mar-May

A1	CEQA	Mimulus latidens	broad-toothed monkeyflower	Vernal Pool, Miscellaneous Wetlands	Apr-Jun
A1	CEQA	Navarretia leucocephala subsp. leucocephala	white-flowered navarretia	Vernal Pool	Apr-May
*A2	1B.1 S2.1? (CEQA) G2?	Navarretia prostrata	prostrate vernal pool navarretia	Alkali Areas, Vernal Pool	Apr-Jul
B		Piperia transversa	flat spurred piperia, transverse piperia	Open Dry Slope, Forest, Scrub (Coastal or Interior), Woodland	May-Aug
*A1	1A SH(CEQA) GH	Plagiobothrys glaber	hairless popcornflower	Alkali Areas, Vernal Pool, Miscellaneous Wetlands	Apr-May
C		Plagiobothrys stipitatus var. stipitatus	showy great valley popcornflower, stipitate allocarya(var. micranthus is more common)	Alkali Areas, Vernal Pool	Mar-Jun
B		Plagiobothrys trachycarpus	rough-nutlet popcornflower, rough-fruited allocarya	Vernal Pool, Miscellaneous	Mar-May
C		Plantago elongata	annual coast plantain	Alkali Areas, Coastal Strand, Vernal Pool	Apr-Jun
B		Pleuropogon californicus var. californicus	semaphore grass	Miscellaneous Wetlands, Riparian	Mar-Jun
B		Pluchea odorata var. odorata	saltmarsh fleabane	Miscellaneous Wetlands	-
B		Psilocarphus oregonus	Oregon woollyheads,	Vernal Pool	Mar-Jul

			Oregon woolly-marbles		
A2	CEQA	Stachys ajugoides	bugle hedge nettle (var. rigida is more common)	Miscellaneous Wetlands	-
B		Stebbinsoseris heterocarpa	grassland silverpuffs, derived microseris	Rock, Tallus, Scree, Miscellaneous	Apr-Jun
A2	CEQA	Trifolium barbigerum	bearded clover	Miscellaneous	-
A2	CEQA	Trifolium flavulum	bull clover (included within T. fucatum)	Alkali Areas, Grassland (Annual or Perennial), Serpentine or Serpentine-derived soils, Miscellaneous Wetlands	-
C		Trifolium fucatum	bull clover	Alkali Areas, Grassland (Annual or Perennial), Serpentine or Serpentine-derived soils, Miscellaneous Wetlands	Apr-Jun
A2	CEQA	Trifolium gambelii	bull clover (included within T. fucatum)	Alkali Areas, Grassland (Annual or Perennial), Serpentine or Serpentine-derived soils, Miscellaneous Wetlands	-

*A1	1B.2 S2.2? (CEQA) G2?	Trifolium hydrophilum	saline clover (vars. amplectens and truncatu)	Alkali Areas, Salt Marsh	Apr-Jun
A2	CEQA	Trifolium wormskioldii	cow clover	Miscellaneous Wetlands	May-Oct
C		Triglochin scilloides	flowering-quillwort	Miscellaneous Wetlands	Mar-Oct
A2	CEQA	Triphysaria versicolor subsp. faucibarbata	smooth owl's-clover	Grassland (Annual or Perennial)	Apr-Jun

Citation:
Lake, Dianne: Rare, Unusual and Significant Plants of Alameda and Contra Costa Counties [web application]. 2016 Berkeley, California: East Bay Chapter of the California Native Plant Society [a non-profit organization]. URL: https://ebcnps.fatcow.com/cgi-bin/ebrare/ebrare.cgi (Accessed: Jul 10, 2016).

East Bay California Native Plant Society (EBCNPS)

Response to EBCNPS-1
The commenter provides introductory statements and general remarks of the organization's mission. The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to EBCNPS-2
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

The commenter provides supportive broad statements about planning agencies' efforts to preserve land and species habitat. The EBNCP further states its satisfaction with the DEIR. No further response is needed to address the comment.

Response to EBCNPS-3
The commenter's statement—that the Tassajara Valley is a botanical hot spot that contains alkaline soils that support a wide variety of rare and unusual plant species that are worthy of protection—is correct. Note that only a portion of the Southern Site is located within the East Dublin and Tassajara BPPA. Project development on the Northern Site would impact only approximately 4.7 acres of Congdon's tarplant and 1.3 acres of San Joaquin spearscale habitats. To offset all permanent impacts on the Northern Site, Mitigation Measure BIO-1a of the RDEIR sets forth a detailed protocol for protecting Congdon's tarplant and San Joaquin spearscale populations by means of surveys, seed collection and storage, the preservation and redistribution of soils most suitable for planting of the foregoing species, the targeted replanting of seeds in carefully selected plant mitigation areas, and the monitored and protected cultivation of new plants (e.g., through fencing). Separately and independently, in addition to the other substantial preservation efforts proposed as part of the Project, the applicant proposes to preserve approximately 175.4 acres of the Southern Site via a Conservation Easement as habitat mitigation. These constitute significant protection measures that would create and preserve rare plant populations in the Tassajara Valley. The Mitigation Land would be managed for the benefit of special-status species. A Habitat Management Plan would be incorporated into the conservation easement deed as an exhibit and would detail management and maintenance goals for the Mitigation Land.

Response to EBCNPS-4
There would be minor impacts to wetlands at the road crossing (W 1 impacts = 0.06 acre). There would be a minimum of a 25-foot setback around the preserved wetlands on the Northern Site. Please note that the wetlands previously received considerable contributions from irrigation runoff from the adjacent off-site soccer field. Irrigation runoff entered the Northern Site via a culvert under Camino Tassajara; however, the hydrology of the affected wetlands has since been greatly modified. The Town of Danville installed artificial grass on the immediately adjacent Mustang Play Fields as an irrigation water conservation measure. With the installation of artificial turf during the drought years, the wetlands on the Project Site no longer received nuisance water from irrigation. Even with the exceptionally wet winter in 2016, it is apparent that the wetland areas on the Northern Site were greatly diminished in the summer of 2017, relative to past years.

The preserved wetlands that remain since cessation of irrigation water inputs would be protected via an Open Space Preserve established along Camino Tassajara that would be fenced. No planting of valley oaks would occur within the preserved habitat or its 25-foot setbacks (See Landscaping map). Thus, the Open Space Preserve along Camino Tassajara would preserve the flora and wetlands that remain in this area.

Response to EBCNPS-5

Agricultural uses are currently allowed by the zoning designation of this site. Approval of the Project would include several changes that would afford additional protection for biological resources. Rezoning the site to PD would restrict certain types of heavier agricultural uses; the vast majority of the Project Site would be permanently preserved via conveyance in fee to the EBRPD, with a portion of this acreage also being subject to a conservation easement that would further restrict certain agricultural uses, to the extent that the relevant agencies determine it appropriate and necessary to ensure that the habitat preservation and open space purposes are achieved.

Response to EBCNPS-6

The RDEIR discusses impacts on the Southern Site: "Development of the Northern Site would result in permanent impacts to approximately 57.29 acres of potential California tiger salamander upland over-summering habitat. Grading activities associated with the creation of mitigation wetlands on the Southern Site would impact approximately 1.18 acres of potential California tiger salamander upland over-summering habitat." and "Grading impacts associated with the creation of mitigation wetlands on the Southern Site shall also be minimized by the use of BMPs to protect preserved wetlands and to ensure water quality in wetlands and other waters within the watershed. These practices can include installing orange construction fencing, hay or gravel waddles, and other protective measures. As noted in Mitigation Measure BIO-3 (f) (RDEIR Section 3.4, Biological Resources, page 3.4-77), "During Project construction, a biological monitor shall be on-site to monitor the integrity of preserved wetlands and other waters."

Response to EBCNPS-7

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to EBCNPS-8

For purposes of CEQA, consistency with respect to plans and/or policies is only relevant if the plan and/or policy was adopted for environmental protection purposes as noted in Appendix G of the CEQA checklist. To the extent that there are General Plan policies that have been adopted for environmental protection purposes, those have been evaluated for the Project's consistency throughout the RDEIR in the relevant environmental topic areas.

For example, the RDEIR evaluates potential biological impacts and documents how all impacts would be reduced to a less than significant level through the implementation of mitigation measures. Please also see Master Response 2: Agricultural Preservation Agreement, as it relates to the ongoing agency support of existing policies that would protect biological resources.

Table 3.4-2: General Plan Biological Resource Goal and Policy Consistency, includes a discussion of the Project's consistency with each applicable policy outlined in the Contra Costa General Plan. The commenter's opinion that the discussion is not sufficiently detailed is noted.

As discussed in the RDEIR, the County has determined that all potential significant impacts to biological habitats and species would be addressed through implementation of the identified mitigation measures. The commenter's opposition to the County's conclusions regarding consistency with applicable policies is noted.

The commenter notes that the statement in RDEIR Section 3.9, Land Use, Population, and Housing, that the Project is consistent with the General Plan and "would not conflict with any applicable provisions of the Contra Costa General Plan," is misleading and invalid. The comment is noted. The commenter does not further elaborate on how or why this statement is misleading or invalid; therefore, a more detailed response cannot be provided. Moreover, see Section 3.9 of the RDEIR for an analysis of the Project's consistency with applicable General Plan policies.

The commenter disagrees with the County's conclusions regarding Impact BIO-5, which relates to consistency with local policies and ordinances. The commenter's opposition to the County's conclusions regarding consistency with applicable policies is noted.

The commenter also disagrees with the County's conclusions regarding Impact BIO-2, which relates to potential impacts to riparian habitats or other potential sensitive natural communities. The commenter's opposition to the County's conclusions regarding impacts to riparian habitats and other sensitive natural communities is noted.

The commenter further reiterates opposition to the characterization of Project impacts as limited to 30 acres. With respect to the potential environmental impacts that could occur outside the 30-acre Residential Development Area, the RDEIR discloses and evaluates all areas of ground disturbance and grading to ensure that all potential environmental impacts are fully evaluated. See, e.g., RDEIR Section 2, Project Description, at pp. 2-34, Grading, as well as Section 3.4, Biological Resources, Impact BIO-1, which makes reference to 50+ acres throughout the impact analysis.

The ultimate determination as to consistency with the General Plan is made by the County decision-makers, i.e., the Board of Supervisors. In making that consistency determination, the Board of Supervisors is not permitted to elevate one policy over another but rather must evaluate consistency in light of the General Plan as a whole.

Response to EBCNPS-9

The commenter's input regarding the appropriate offset mitigation ratio is noted. The RDEIR includes a baseline mitigation and also notes that the resource agencies may impose additional mitigation requirements during the permitting process. The ultimate offset mitigation ratio and any other requirements imposed by the resource agencies would be binding and would be implemented by the applicant.

Response to EBCNPS-10
The comment provides information about plants that grow in alkali soil being specially adapted to their unique hydrologic and chemical environment, and emphasizes the importance of protecting the alkali wetland on-site.

As noted in the foregoing responses to comments, multiple surveys of the Northern and Southern Sites were conducted that accounted for rare plants, with these surveys complying with state, federal, and CNPS guidelines. The biological diversity in the Project Site was fully accounted for, and additional studies and tests are unnecessary. With respect to the health of on-site wetlands, there would be a minimum of a 25-foot setback around the preserved wetlands on the Northern Site. The preserved wetlands would be protected via an Open Space Preserve along Tassajara Road that would be fenced (see Existing/Impacted Wetlands map). As noted in this comment, despite heavy grazing and localized drainage changes, including irrigation water contributions into these wetlands for years, this alkali wetland in the Project Site has continued to persist. Keep in mind that in the years prior to and during when field surveys were conducted, the wetland hydrology was substantially supplemented by nuisance water flowing onto the Project Site from soccer fields south of Camino Tassajara with little adverse impacts to these alkaline wetlands. There is no reason to believe the alkali habitat would cease to persist within the proposed Open Space Preserve, and, in fact, in the absence of irrigation runoff, may even become more representative of alkaline wetlands than occurred when the hydrology was altered by the addition of off-site irrigation water. To the extent that significant impacts to on-site wetlands were identified, the RDEIR prescribed a comprehensive plan to mitigate impacts to less than significant levels, as detailed in Mitigation Measure BIO-3. No further mitigations are required.

Response to EBCNPS-11
The methods for conducting rare plant surveys and for quantifying the densities and numbers of rare plants meet all scientific and regulatory agency requirements for conducting these surveys. More importantly, the methods used are consistent with the standards of evaluation required by CEQA. Rare plant surveys were conducted in compliance with USFWS (1996 and 2002), CDFW (2009), and CNPS (2001) published rare plant survey guidelines. Similarly, proposed surveys the year prior to development would also include surveys for locally occurring rare plants as documented by the East Bay Chapter of CNPS published: Rare, Unusual, and Significant Plants of Alameda and Contra Costa Counties.

The level of impact to Congdon's tarplant and San Joaquin spearscale was ascertained from an averaged colony density over a specified acreage of occurrence in square meter increments. This is a very high level of detail, and further analysis is not required or warranted to meet the standards of evaluation required by CEQA Guidelines. Indeed, the measure of impacts far exceeds the standards of care required to assess the significance of impacts to rare plants from implementation of the proposed Project. Additional rare plant surveys for special-status plants would occur in the year prior to breaking ground within the Residential Development Area or otherwise within the Ground Disturbance Areas on the Project Site, in compliance with USFWS (1996 and 2002), CDFW (2009), and CNPS (2001) published rare plant survey guidelines (See revised Mitigation Measure BIO-1 a). Surveys would also evaluate for locally rare plants as documented by the East Bay Chapter of CNPS published: Rare, Unusual, and Significant Plants of Alameda and Contra Costa Counties. Data

collected would include cover data for both Congdon's Tarplant and San Joaquin Spearscale (average numbers of plants per meter), and estimated population count numbers. Project construction would not be permitted to be initiated until all special-status plant surveys are completed and mitigation, if necessary, is implemented.

Upon completion of the additional rare plant surveys, a special-status plant survey report that includes the methods used, survey participants, and findings would be required to be prepared and submitted to the Contra Costa County Department of Conservation and Development, and CDFW. Populations of special-status species would be required to be avoided to the maximum degree practicable. If avoidance is not practicable, a Rare Plant Mitigation and Monitoring Plan would be required to be prepared and submitted to the County and CDFW for approval prior to the start of ground-disturbing related activities.

The commenter also suggests that the Project may be impacting the "most robust and significant population" of Congdon's tarplant and San Joaquin spearscale on the Northern and Southern Sites. The density of the populations occurring on both sites, including the plant population's ground coverage as a percentage and per square meter, as well as the acreage encompassed by each plant population, was quantified and described in detail in the RDEIR (see, for instance, Section 3.4, Biological Resources, pages 3.4-13, 3.4-14, and 3.4-57), and these facts were contemplated in the design of Mitigation Measure BIO-1a. Therefore, the concerns and questions the commenter raises were contemplated and addressed in the RDEIR.

Response to EBCNPS-12
The RDEIR accurately characterizes the vegetation communities. *Centromadia pungens* was not detected on the Project Site during rare plant surveys. (See Appendix C.1, Table 1—plants observed). All natural communities identified on the Project Site were discussed in the RDEIR.

Response to EBCNPS-13
The RDEIR accurately characterizes the vegetation communities; see, e.g., RDEIR Section 3.4, Biological Resources, at 3.4-2 to 3.4-7. While the MCV is an excellent resource for detailed mapping, classification, and characterization of fine-scale habitat mosaics, this level of detail is not required in CEQA-level project analyses, nor is it necessary in order to assess the suitability of habitat for, or impacts to, special-status plant species and their associated communities. It is the on-site fieldwork conducted by seasoned Botanists, which was done as part of the analysis for the RDEIR, which both identifies and evaluates the suitability of habitat for rare and native plants on a site-specific basis rather than the specific naming scheme. While the substantial level of detail as provided in the MCV is acknowledged, it has yet to be integrated into widely used and accessible resources, such as the CNPS's Rare Plant Inventory, a resource used by biological consultants and others to determine habitat affinities of special-status plant species that are protected pursuant to CEQA Guidelines, FESA and CESA.

As such, the experienced Biologists involved in conducting the analyses reflected in the RDEIR determined it was most appropriate to use established references, such as the Preliminary Descriptions of the Terrestrial Natural Communities of California (Holland 1986), which have been fully incorporated into all widely accepted industry sources to assess a special-status species' potential for occurrence on the Project Site. Thus, both the broad habitats identified on the Project

Site and the microhabitats known to support special-status species (e.g., alkali grassland) were drawn from widely accepted plant references (which have accepted crosswalks included within the MCV) and were incorporated as such into the RDEIR's analysis. There were no omissions of consideration for rare plants nor mischaracterization of plant communities.

Response to EBCNPS-14

There would be a minimum of a 25-foot setback around all preserved wetlands on the Northern Site. The preserved wetlands would be protected in an Open Space Preserve along Tassajara Road that would be fenced. Impacts to wetlands on the Southern Site would be minimized by the use of BMPs to protect preserved wetlands and to ensure water quality in wetlands and other waters within the watershed. These practices can include installing orange construction fencing, hay or gravel waddles, and other protective measures. During Project construction, a Biological Monitor would be required to be on-site to monitor the integrity of preserved wetlands and other waters.

Response to EBCNPS-15

Exhibits 3.4-7 and 3.4-8 in Section 3.4, Biological Resources, of the RDEIR indicate the extent to which the development would overlap with wetlands and with the mapped rare plant populations. These populations would be preserved to the extent feasible on the Northern Site. In addition, rare plant populations would be preserved within the approximately 175.4-acre Conservation Easement area that would be established on the Southern Site. As part of proposed mitigation for impacts to rare plants within the Residential Development Area and other portions of the Ground Disturbance Areas, seed collection of both species would be conducted prior to disturbing any area that supports Congdon's tarplant or San Joaquin spearscale. These seeds would be dispersed within the mitigation site at opportune germination locations, as detailed in Mitigation Measure BIO-1a.

Congdon's tarplant and San Joaquin spearscale typically grow in valley and foothill grassland on alkaline, clay soils at 300 meters or lower in elevation. Common associates that co-occur on-site with these special-status species are a mix of annual grassland species that demonstrate some amount of mesic influence including Italian ryegrass (*Festuca perennis*), Mediterranean barley (*Hordeum marinum* ssp. *gussoneanum*), spiny cocklebur (*Xanthium spinosum*), hyssop loosestrife (Lythrum *hyssopifolia*), yellow star-thistle (*Centaurea solstitialis*) and bristly ox-tongue (*Helminthotheca echioides*). Common halophytic associates of Congdon's tarplant and San Joaquin spearscale include hastate orache (*Atriplex prostrata*), Boccone's sand spurrey (*Spergularia bocconi*), alkali mallow (*Malvella leprosa*), and saltgrass (*Distichlis spicata*) that co-occur with the special-status species on-site. According to the CNDDB (2015), Congdon's tarplant has often been found on the following soil series: Clear Lake Clay, Diablo Clay, Cropley Clay, and Conejo Clay Loam, whereas San Joaquin spearscale occurs on high clay, alkaline soils such as Pescadero Clay. Most occurrences of these species have occurred on flat areas, depressions, swales, and low hills where high clay content soils are present (CNDDB 2015). The most suitable special-status plant mitigation area on the Southern Site occurs on Clear Lake Clay (0–2 percent slopes) and Pescadero Clay Loam (0–2percent slopes). A Special-Status Plant Mitigation Area would be identified in suitable areas within the Conservation Easement area on the Southern Site. The County also refers the commenter to Mitigation Measure BIO-1a, which involves the scalping and temporary stockpiling of special-status plant species soils, to be distributed after the completing of grading and recontouring, and to accommodate the planting of harvested seeds from the Congdon's tarplant and San Joaquin spearscale.

Response to EBCNPS-16
Comment noted. Pursuant to CEQA, appropriate mitigation measures are proposed to mitigate impacts to special-status plants, and substantial evidence in the record demonstrates that the mitigation measures identified in the RDEIR would reduce Project-related impacts to wetlands and to rare plants to less-than-significant levels. Please see, for instance, Mitigation Measure BIO-3. Please also see Impact HYD-2 in the RDEIR, which analyzed whether the Project would adversely affect groundwater levels, and concluded that no significant impact to groundwater would occur.

As detailed in responses to comments above, a number of rare plant surveys have been conducted, and these establish a full baseline plant community characterization. Another survey would be conducted, as detailed in Mitigation Measure BIO-1a, prior to construction in order to update these surveys. A Rare Plant Mitigation and Monitoring Plan would also be prepared, pursuant to BIO-1.b, that would specify the designated special-status plant mitigation area on the Southern Site. There is approximately 70 acres of potential, suitable special-status plant mitigation areas on the Southern Site. Suitable special-status plant mitigation areas on the Southern Site are discussed in Mitigation Measure BIO-1. The salvage of the seed bank and the collection of seeds of Congdon's tarplants and San Joaquin spearscale would be distributed at an appropriate time of year (late-fall months) within the designated special-status plant mitigation area on the Southern Site, as further detailed in Mitigation Measure BIO-1a. The applicant's qualified Botanist would be required to conduct annual monitoring of the transplanted populations for a 5-year period as outlined in the Rare Plant Mitigation and Monitoring Plan, and would be required to prepare annual monitoring reports to document the success or failure the transplanting effort. These reports would be required to be submitted to Contra Costa County Department of Conservation and CDFW no later than December 1st of each monitoring year.

As noted in Mitigation Measure BIO-1c, prior to disturbing any area that supports Congdon's tarplant or San Joaquin spearscale, a qualified Botanist would collect the seeds or oversee the seed collection of both species by a qualified seed collection crew from a company, such as Pacific Coast Seed Company. A percentage of the collected seed would remain in storage for subsequent, supplemental seeding if deemed necessary, to ensure successful replanting of Congdon's tarplant and San Joaquin spearscale in the special-status plant mitigation areas. The Rare Plant Mitigation and Monitoring Plan would include replanting and redistribution area contingencies in the case that seeding and germination fail to meet success criteria in the first 5 years after the rare plant mitigation plan is implemented.

As stated in the RDEIR, a training program would be required to be conducted by a Biologist before groundbreaking for all personnel working on the Project to explain the State and Federal Endangered Species Acts, and any endangered species concerns and required protections. This training program would include a discussion of other special-status species, their associated habitats and their legal protections, and specific avoidance measures that would be implemented to protect those species. After the site is developed and occupied by residents, signs would be posted around the Open Space Preserve to educate the public regarding the special-status species and wetlands preserved within this Open Space Preserve area.

Response to EBCNPS-17
Please refer to Master Response 2, Agricultural Preservation Agreement.

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. With respect to the potential environmental impacts that could occur outside of the 30-acre Residential Development Area, the RDEIR discloses and evaluates all areas of ground disturbance and grading to ensure that all potential environmental impacts are fully evaluated. See, e.g., RDEIR Section 2, Project Description, at pp. 2-34, Grading, as well as Section 3.4, Biological Resources, Impact BIO-1, which makes reference to 50+ acres throughout the impact analysis.

Response to EBCNPS-18
Please refer to RDEIR, section 2.2.6 for a discussion of the Agricultural Preservation Agreement related to the formation of the Tassajara Valley Agricultural Preservation and Enhancement Area.

Please refer to page 2-31 for a discussion of the GHAD.

Response to EBCNPS-19
The comment regarding the gravity of proposed changes to the ULL is noted.

Response to EBCNPS-20
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

EAST BAY
MUNICIPAL UTILITY DISTRICT

July 13, 2016

John Oborne, Senior Planner
Contra Costa County Department of Conservation & Development
30 Muir Road
Martinez, CA 94553

Re: Notice of Completion and Availability of Draft Environmental Impact Report for the Tassajara Parks Project, Unincorporated Contra Costa County

Dear Mr. Oborne:

East Bay Municipal Utility District (EBMUD or District) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the proposed Tassajara Parks Project (Project) located in the unincorporated area of Contra Costa County. The Project is located outside EBMUD's Ultimate Service Boundary (USB) and outside Contra Costa County's Urban Limit Line (ULL); Contra Costa County submitted an application to the Contra Costa Local Agency Formation Commission (LAFCO) for Sphere of Influence Amendments and Annexation to EBMUD on May 20, 2016. The Draft EIR assumes that EBMUD will play a role in implementing the Project's water strategy and identifies EBMUD as the water provider for the Project. EBMUD previously provided written comments to Contra Costa County on earlier versions of the Project in March 2010, May 2011, March 2013, March 2014, June 2014, and February 2015. As stated in those letters and per EBMUD Policies 3.01, 3.05, and 3.08 (copies attached), EBMUD's position has not changed. EBMUD will oppose annexation of properties located outside of EBMUD's USB and the extension of service by EBMUD to those properties. 1

EBMUD has the following comments specific to annexation, water supply, growth-inducing impacts, water demand, and water service as discussed in the Draft EIR.

ANNEXATION AND EBMUD POLICIES

The EBMUD Board of Directors has established several policies to guide District action on projects that require annexation of new territory to EBMUD's service area. Consistent with EBMUD Policies 3.01, 3.05, and 3.08, the District opposes annexation to its service area of properties outside of EBMUD's USB and the extension of service by EBMUD to those properties. Although the Draft EIR addresses the applicability of these policies to the Project, the Draft EIR should incorporate EBMUD's following comments in response to the applicability of these policies: 2

- **Policy 3.01**: The Draft EIR incorrectly states that the Project is consistent with Policy 3.01 (Draft EIR, page 3.9-37). Policy 3.01 places several important conditions on annexations into 3

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EBMUD's service area. First and foremost, the policy sets a framework for consideration of annexations that is based on a proposed annexation's location in relation to the USB. Simply put, except in certain narrow circumstances, EBMUD will oppose annexations unless they are located entirely within the USB or otherwise comply with Policy 3.08 (see below). Here, the Project is not consistent with Policy 3.01, because the Project's boundaries are entirely outside of the USB, and the two narrow exceptions to that general policy—that the proposed annexation either be (1) a small boundary adjustment where the property in question is a small part of a larger development located primarily within the USB and meets several other requirements, or (2) necessary to mitigate health risks—are inapplicable. Nor does the Project comply with Policy 3.08, which requires EBMUD to oppose annexations of 200 dwelling units or less that are located outside of the ULL. Accordingly, consistent with Policy 3.01, EBMUD will oppose this annexation. 3 CONT

- **Policy 3.05**: Policy 3.05 states that the USB defines the territory within which EBMUD has planned to provide water service for both existing and future customers and that EBMUD will not extend water service outside the USB if doing so would result in a reduction in the quantity of water available to District customers to satisfy existing or projected levels of demand, a reduction in water quality for the District's customers, or an increase in the cost of service for District customers. Because the Project would lead to a reduction in the quantity of water available to existing EBMUD customers, as EBMUD has not planned for serving properties located outside the USB, EBMUD's existing water supplies are insufficient to serve the Project. Because the water supply analysis described in the Draft EIR and Water Supply Evaluation (WSE) is incomplete, the Draft EIR does not adequately identify a sufficient water supply for the Project and, therefore, the Project has not demonstrated that it will not adversely affect District customers under the considerations set forth in Policy 3.05. 4

- **Policy 3.08**: Policy 3.08 sets forth events triggering an advisory election on proposed annexations located outside the ULL. The Draft EIR incorrectly states in Section 3.9 on page 3.9-38, that "the Project is covered by and consistent with Policy 3.01, so Policy 3.08 does not require EBMUD to oppose the Project or call an advisory election." As stated above, the Project is not consistent with Policy 3.01, and given its size and location outside the ULL, under Policy 3.01 and Policy 3.08, EBMUD will oppose the proposed annexation, and the District's Board of Directors will determine, at a regularly scheduled public meeting, whether to call an advisory election on the question of whether such territory should be annexed to EBMUD. 5

WATER SUPPLY IMPACTS

As the Project is located outside of EBMUD's USB, EBMUD has not planned to, nor does it have sufficient water supplies to, serve the Project. In addition, the water demand for the Project is not included in any of EBMUD's water supply planning documents, including its Urban Water Management Plan (UWMP). While EBMUD may have sufficient water supplies from the Mokelumne River to serve existing and planned growth during normal runoff and single dry years, Mokelumne River and local watershed supply is not sufficient to meet 2040 customer demands during multi-year droughts without achieving potentially significant water use 6

reductions and obtaining supplemental supplies. Refer to EBMUD's UWMP 2015 located on the EBMUD website at http://www.ebmud.com/water-and-drought/about-your-water/water-supply/urban-water-management-plan/. 6 CONT

As stated on page 3.13-25 of the Draft EIR, under Water Demands during Single- and Multiple Dry-Year Conditions, the WSE assumes the Project would achieve half of the conservation goal set by the water utility in multiple dry years. While this assumption may have been used to provide a more conservative assessment of water supply sufficiency, please understand that if the Project were to be annexed into EBMUD's USB, it would be required to adhere to all EBMUD drought restrictions as outlined in the UWMP 2015, including water use restrictions established pursuant to the District's Drought Management Program (DMP) Guidelines. Under the current DMP Guidelines, water use restrictions may be determined based upon either projected end-of-September Total System Storage (TSS) or water use restriction mandates from the State Water Resources Control Board (SWRCB). When state-mandated water use restrictions exceed the reductions that would otherwise be called for based upon the end-of-September TSS, EBMUD's water use reduction requirements may be guided by the applicable state mandates. Under either scenario, while EBMUD has a goal of maintaining mandatory water use reductions at or below 15 percent, if the drought is severe, mandatory water use reductions could exceed 15 percent. Under the most recent drought, EBMUD declared a Stage 4 Drought and a mandatory District-wide conservation goal of 20 percent water use reduction and adopted mandatory water use prohibition and restriction regulations. This 20 percent conservation goal met the requirements of both state drought emergency orders and the SWRCB extension of its emergency water conservation regulations. 7

GROWTH-INDUCING IMPACTS

As explained further below, the Draft EIR does not adequately address the water supply source for the Project and must include a detailed discussion of the water supply source, including water treatment and transmission facilities, needed to serve the Project. There should also be an analysis of growth-inducing effects the Project may have in the greater Camino Tassajara Valley, for example, residences on Finley Road and the implications and impacts of obtaining water sources to serve the potential growth. Further discussion concerning the proposed water source for the Project is provided below. 8

WATER DEMAND PROJECTIONS

EBMUD reviewed the water demand estimates provided in the Draft EIR, Section 3.13. The total residential demand was estimated by the Project sponsor to be 39 acre-feet (ac-ft) per year or 34,814 gallons per day (gpd) for 125 single-family residential homes and up to 47 ac-ft or 41,956 gpd for the 125 residential units, a trailhead restroom, and streetscaping during dry years. The WSE assumes that the development will achieve all of the water conservation goals set by Contra Costa County and the State of California even in areas where the water conservation goals are not required like the backyard landscaping. The WSE further reduces the Project water demand by assuming that there will be 1,500 square feet (sf) of hardscape per lot, which appears high for 5,000-sf and 7,500-sf lots. Based on historical data, EBMUD's standard estimate for 9

single-family residential homes in the surrounding area, which includes the cities of San Ramon, Danville and Alamo, is about 580 gpd. For 125 homes, a trailhead restroom, and one acre of streetscaping, EBMUD anticipates the annual water demand would be 75,500 gpd, almost twice the demand estimated in the Draft EIR. The Draft EIR should be adjusted to reflect a more reasonable water demand for the Project. 9 CONT

WATER SERVICE

The water supply alternatives described in the Draft EIR will impact EBMUD's water distribution system. The Project is located north of Camino Tassajara, adjacent to EBMUD's Scenic Pressure Zone (PZ), which serves an elevation range between 650 and 850 feet. If the Project is annexed into EBMUD's USB, the Project would be served by the Scenic PZ.

Per EBMUD Engineering Standard Practices, water distribution facilities are sized to meet the maximum day demand, not the average annual demand, as it is not enough to size facilities to be able to supply water only on an average day. As the maximum day factor between the average annual demand and the maximum day demand is 2.5 for the Scenic PZ, the maximum day demand for the Project is estimated to be about 189,000 gpd.

Based on projected future demands for the Scenic PZ, there is a current deficiency in pumping and storage capacity; adding additional demand from the Project would further exacerbate the deficiency. The Draft EIR needs to include an analysis and identify all the capacity improvements that would be required to serve the Project beyond just extending a distribution pipeline should the Project be annexed. 10

If the Project is annexed to EBMUD's service territory, the Project sponsor would be required to enter into an Advanced Payment Agreement (APA), Preliminary Work Deposit per Section 3B of the Regulations Governing Water Service to Customers of EBMUD, at the Project sponsor's expense, to complete the planning for any new major facilities (reservoir, pumping plant, and pipelines) that may be required to serve the Project. Subsequent design and construction APAs would be required and fully funded by the Project sponsor.

ANALYSIS OF WATER SUPPLY

Section 3.13.2 of the Draft EIR and the Project WSE, which was attached to the Draft EIR, propose two water supply sources to meet or offset estimated Project demands: water to be supplied by the Calaveras Public Utility District (CPUD) or existing potable water supplies through the development of additional recycled water projects paid for by the Project sponsor.

CPUD Water Supply 11

While the Draft EIR identifies pre-1914 water purchased from CPUD as the first water supply option to meet the water demand of the Project (Draft EIR, Section 3.13.2), there is a fundamental question as to whether such a supply could legally be provided to the Project, given

the water rights and agreements on the Mokelumne River and, if it could, whether such actual "real" water exists. The following water rights issues were identified by EBMUD: 11 CONT

1) The May 8, 1940 Agreement between CPUD and EBMUD determines the respective rights of CPUD and EBMUD and was entered into, in part, to quantify CPUD's pre-1914 water rights. The agreement provides that CPUD has pre-1914 water rights to divert up to 12.5 cubic feet per second (cfs)[1] from the South Fork of the Mokelumne River, as augmented by diversion from the Middle and Licking Forks of said river, for industrial, domestic, mining and agricultural purposes "within the boundaries of" CPUD (*Paragraph 1 – 1940 Agreement*). The Project is located within Contra Costa County, well outside the boundaries of CPUD. Thus, EBMUD does not believe this portion of CPUD's pre-1914 right may be used as a source of water supply for the Project. 12

2) The diversion or storage by CPUD in excess of the above amounts is junior to EBMUD's Pardee municipal right (*Paragraph 2 – 1940 Agreement*). Thus, if the source of Project water is from a purported CPUD claim to pre-1914 water over and above the pre-1914 water quantified in Section 1 of the 1940 Agreement, such water is junior to EBMUD and cannot impact or injure EBMUD's ability to divert under its senior rights. Such an impact would be inconsistent with the 1940 Agreement and could cause environmental impacts as well. 13

3) In addition, the 1940 Agreement provides that any diversion or storage by CPUD for the generation of power is junior to EBMUD's Pardee municipal right and power rights (*Paragraph 3 – 1940 Agreement*). Thus, if the water proposed to be sold by CPUD to the Project proponents is to be released from Schaad Reservoir to generate power, that use would also be junior to EBMUD's Pardee rights and cannot impact or injure EBMUD's ability to divert under its rights. 14

4) CPUD's pre-1914 water right is part of the 27,000 ac-ft reserved for Calaveras County by the State of California in its "State Filing" made in 1927, under Application 5648, to hold water for future use in Calaveras County. CPUD has a permit (Permit 16338) granted to it in 1971 under the State Filing. In its role as the administrator of State Filings, in March 1959, the Department of Water Resources issued a Release From Priority, under which 27,000 ac-ft of water is reserved for Calaveras County. The Release explicitly provides that the reservation is "for use in Calaveras County . . . ." *(Condition 2, Release From Priority)*. Permit 16338 itself contains a similar limitation, providing in Term 7 that water use is "in Calaveras County . . . ." 15

   Therefore, as with the 1940 Agreement's limitation discussed above describing CPUD's pre-1914 right, water use under CPUD's Permit 16338 must also be within Calaveras County. The Project, as it is located in Contra Costa County, is well outside that Calaveras County place of use. Thus, EBMUD does not believe any portion of water enveloped within Permit

[1] The 1940 Agreement also provides that CPUD's pre-1914 right includes the right to use a portion of the 12.5 cfs (up to 1,800 ac-ft) for diversion to storage in the Reservoir on the Middle Fork of the Mokelumne River (Schaad Reservoir) (*Paragraph 1 – 1940 Agreement*).

16338, whether a pre- or post-1914 water right, may be used as a source of water supply for the Project. 15 CONT

5) Water stored in Schaad Reservoir for hydropower generation is junior to EBMUD's Pardee municipal and power rights. As such, sale of this water could result in injury to EBMUD's senior water right. 16

EBMUD also finds that the Schaad Reservoir operations analysis in the Draft EIR, Section 3.13, and WSE, Section 3.3.1, is insufficient to assess impacts to CPUD and EBMUD's water supply for existing customers in the future for the following reasons: 17

1) The analysis is limited to a narrow 20-year period of the years of 1995 to 2015. Modeling of a longer period of record is needed to properly assess impacts.

2) The WSE indicates that water stored in Schaad Reservoir is released for hydropower generation, fishery release requirements, and water deliveries to Calaveras County Water District. According to intermittent reports filed by CPUD under Statement S010773 dating back to 1982 from eWRIMS (SWRCB electronic website on Water rights reports), domestic, mining, and agricultural usage was higher than indicated in the analysis. 18

3) If the issues EBMUD raises above concerning the 1940 Agreement and 1927 State Filing/Permit 16338 are somehow resolved, the Project sponsor must demonstrate through in-depth modeling or simulation that real additional water is made available through Schaad Reservoir. The analysis provided in the Draft EIR is insufficient to prove that water from Schaad Reservoir is not already a part of EBMUD's water rights. 19

4) After the creation of real additional water is proven, any reservoir reoperation transfer from Schaad Reservoir must include a refill agreement with EBMUD. The charts presented in the WSE are misleading without a proper refill agreement factored in. By not modeling a refill agreement, the WSE presents artificially high reservoir levels that do not reflect what would be required to address EBMUD water supply impacts. 20

5) The Draft EIR and WSE do not consider the impact of the new additional demands on emergency water supplies. The proposed Project assumes that water would move to EBMUD's service area via EBMUD's Mokelumne Aqueducts. As described in the UWMP, it is EBMUD's practice to maintain 180 days of local storage in its East Bay reservoirs to meet its customers' demands in case of an emergency such as aqueduct outage. EBMUD would need to assess this new additional demand in relation to the emergency standby storage, recovery via aqueducts, and existing agreements EBMUD may have with other local agencies to wheel water during emergencies. 21

6) The Draft EIR and WSE should include adequate analysis to show that there are no significant impacts on the Schaad Reservoir water supply, power generation, and recreation due to reoperating Schaad Reservoir for diverting water supplies to EBMUD. 22

7) The CPUD supply must be analyzed using the Project water demands as estimated by EBMUD in the range of 75,500 gpd. 23

In addition, even if the CPUD supply was determined to be adequate and consistent with existing water rights agreements, there is a substantial administrative cost for EBMUD to coordinate with CPUD and assure that refill conditions are properly met. It is also unclear how EBMUD could enforce terms of a transfer refill agreement to assure that EBMUD water supplies are not impacted after the Project is built and the demands are being served. 24

Recycled Water Offset

The Draft EIR identifies recycled water as the second water supply option to augment the availability of potable water to meet the water demand of the Project (Draft EIR, Section 3.13.2). In addition to recycled water, water conservation projects funded by the Project sponsor should be added as an approach to offset potable water demand. If the Project was annexed to EBMUD, a detailed agreement with EBMUD describing how the potable water offset would be created and managed would be required to address water supply needs and determine the feasibility of the recycled water and/or conservation offset option. Typical offsets for a development outside of EBMUD's USB have been at least a 2-for-1 demand offset. A higher offset may be warranted for this Project, since the Project sponsor is proposing to add onto an existing recycled water project that EBMUD could fund itself at a future date. 25

The Draft EIR identifies a 1.8-mile recycled water pipeline within the right-of-way of San Ramon Valley Boulevard, from Alcosta Boulevard to Montevideo Avenue, as the method of extending the recycled water infrastructure and developing a water supply offset. The Dublin San Ramon Services District (DSRSD)-EBMUD Recycled Water Authority (DERWA) recycled water system is currently limited based upon available wastewater supply as well as water treatment, pumping and transmission capacity. The Draft EIR needs to include an analysis and identify all the capacity improvements that would be required in order to add customers to the San Ramon Valley Recycled Water Project (SRVRWP) beyond just extending a distribution pipeline. There would also need to be a commitment for a new supply of wastewater, in addition to wastewater already committed to the SRVRWP that would be used to make the recycled water. In addition, with the larger Project demand estimated by EBMUD, the size of the recycled water project will need to grow accordingly to account for the potable water offset. 26

Note that if all the above issues are resolved, such that real water is available for the Project consistent with the law, and if the Project is annexed into EBMUD's service area, significant effort and lead time will then be required to address potential impacts to EBMUD's water rights and obtain approvals on the state and federal levels. Pursuant to a Long Term Renewal Contract (Contract) with the United States Bureau of Reclamation (USBR), EBMUD has the right to purchase water from the Central Valley Project (CVP) in dry years to supplement its core supply obtained from the Mokelumne River. The Contract requires EBMUD to apply to the USBR for inclusion of any annexed territory so that, if included, the annexed territory would also be authorized to receive CVP water during dry years. To add the Project to the CVP's place of use, approvals would be required by the USBR and other federal agencies including the Army Corps 27

of Engineers. Mitigation measures may be required for the proposed development as a part of the federal approval process. 27 CONT

In addition, to serve the annexed area, the SWRCB would also need to approve a change petition to add the Project area to EBMUD's place of use under its water rights. This is a time-consuming process, better measured in years, not months, and EBMUD would require the Project proponents to enter a cost reimbursement agreement to recover its staff and permitting costs associated with these filings. Finally, the SWRCB should be added as a responsible agency to the Draft EIR, as the SWRCB will need to rely upon it as environmental documentation for its consideration of a change petition related to the Project. 28

EBMUD staff would be willing to meet with the Project sponsor and Contra Costa County to discuss water supply strategies. You can contact me at (510) 287-1365 to initiate discussions with EBMUD staff or if you have any questions concerning this response. 29

Sincerely,

David J. Rehnstrom
Manager of Water Distribution Planning

DJR:SHT:dks
sb16_094.docx

Attachments: EBMUD Policy 3.01 – Annexations
EBMUD Policy 3.05 – Considerations for Extension of Water Beyond the Ultimate Service Boundary
EBMUD Policy 3.08 – Advisory Election for Annexations Outside the Contra Costa County Urban Limit Line

cc: David Bowlby
3000 F Danville Boulevard, #409
Alamo, CA 94507

Miller Starr Regalia
Attention: Nadia Costa
1331 North California Boulevard, 5th Floor
Walnut Creek, CA 94596

Miller Starr Regalia
Attention: Bryan Wenter
1331 North California Boulevard, 5th Floor
Walnut Creek, CA 94596

FT Land
c/o Anderson & Bonnifield
Attention: Mike Bonnifield
1320 Willow Pass Road
Concord, CA 94520

EBMUD

Policy 3.01

EFFECTIVE 24 NOV 15

SUPERSEDES 27 OCT 09

ANNEXATIONS

IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Consider annexing territory, when requested by owners of the property or public agencies having jurisdiction.

Conditions

Annexations are subject to the following conditions:

- The proposed annexation shall either be within EBMUD's Ultimate Service Boundary, or comply with Policy 3.08 – Advisory Elections for Annexations Outside the Contra Costa County Urban Limit Line.
- Generally, there should be an immediate need for water service on part or all of the territory being annexed.
- The territory proposed for annexation should include any parcels required to make a logical boundary.
- The annexation should facilitate the operation of the utility and be of advantage to the community.
- The annexation should be economically sound and water service technically feasible.
- Territory within the boundaries of the East Bay Watershed Master Plan, but lying outside the boundary of the Briones Hills Agricultural Preservation Area (BHAPA) must:
  - Have adequate facilities for removal of sewage from the watershed; and
  - Be under agreement or permanent deed restriction with EBMUD to protect the quality of source water under the influence of the territory.
- Territory shall be outside the boundary of the BHAPA as adopted by Contra Costa County and signatory cities, except where:
  - The territory is in EBMUD or other public agency ownership and will remain in public ownership; and
  - EBMUD obtains agreements or permanent deed restrictions from the public agency owner that provide for protection of the quality of source water under the influence of the territory.

  EBMUD policy shall be to express opposition to annexation of privately held parcels within the BHAPA boundary.
- If the proposed annexation extends beyond the Contractor Service Area of EBMUD's Central Valley Project (CVP) water supply contract, EBMUD shall request the United States Bureau of Reclamation (USBR) to include the proposed annexation in the Contractor Service Area in compliance with Article 35 of the CVP water supply contract. EBMUD shall also request the responsible Local Agency Formation Commission to condition water service to the annexed territory until receipt of USBR's formal approval of the inclusion.

Annexations

NUMBER	3.01
PAGE NO.:	2
EFFECTIVE DATE:	24 NOV 15

Territory Outside of Ultimate Service Boundary

EBMUD shall express opposition to all proposed annexations outside of the Ultimate Service Boundary unless:

a) The requested annexation is a small boundary adjustment found by EBMUD to be in its best interests based on the following conditions:

(1) The property and dwelling units are the smaller part of a larger development project located primarily within the Ultimate Service Boundary;

(2) The development project is desired and approved by the city or county land use planning agency with jurisdiction, and the land use planning and environmental documentation recognizes EBMUD as the logical provider of water service;

(3) Annexation of the property to EBMUD represents the most practical and feasible method of obtaining water service;

(4) The cumulative number of dwelling units outside the Ultimate Service Boundary added as a result of such small boundary adjustments shall not exceed 100 in any two-year period;

(5) The project proponent has agreed to cooperate with EBMUD in adding the territory to EBMUD's permitted place of use and has agreed to compensate EBMUD for costs incurred; and

(6) EBMUD Policy 3.05 – Considerations for Extension of Water Beyond the Ultimate Service Boundary, and Policy 9.03 – Water Supply Availability and Deficiency, are satisfied with regard to the effects of extension of water beyond the Ultimate Service Boundary; or

b) The requested annexation is to mitigate health risks, as established by the appropriate agency, associated with existing water supplies; the project proponent has agreed to cooperate with EBMUD in adding the territory to EBMUD's permitted place of use; and has agreed to compensate EBMUD for costs incurred.

Authority

Resolution No. 20996, June 8, 1962
Amended by Board Motion No. 91-012, February 14, 1991
Amended by Resolution No. 33116-98, August 11, 1998
Amended by Resolution No. 33365-03, July 8, 2003
Amended by Resolution No. 33634-07, October 9, 2007
Amended by Resolution No. 33732-09, October 27, 2009
Amended by Resolution No. 34059-15, November 24, 2015

References

Policy 3.05 – Considerations for Extension of Water Beyond the Ultimate Service Boundary
Policy 3.08 – Advisory Election for Annexations Outside the Contra Costa County Urban Limit Line
Policy 9.03 – Water Supply Availability and Deficiency

EBMUD

Policy 3.05

EFFECTIVE 26 APR 16

SUPERSEDES 14 NOV 06

CONSIDERATIONS FOR EXTENSION OF WATER BEYOND THE ULTIMATE SERVICE BOUNDARY

IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT THAT:

The District will not extend water to areas outside the present Ultimate Service Boundary (USB) of the District, if such extension could result in:

1. A reduction in the quantity of water available to District customers to satisfy existing or projected levels of demand; or

2. A reduction in the quality of water available to District customers from the District's present water sources; or

3. An increase in costs of service for District customers.

The USB defines the territory within which the District has planned to provide water service. The phrase "District customers" as used in this policy shall mean (i) existing water service customers of the District and (ii) future customers, located within the present USB, but not now receiving water service.

This policy shall not apply to proposed annexations of property to the District's service area within the USB. All extensions and annexations shall continue to be evaluated on a case-by-case basis.

Authority

Board Motion, adopted on March 8, 1983
Amended by Resolution No. 33236-01, February 13, 2001
Amended by Resolution No. 33564-06, November 14, 2006
Amended by Resolution No. 34080-16, April 26, 2016

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East Bay Municipal Utility District (EBMUD)

Response to EBMUD-1
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Additionally, please see responses to RDEIR comments EBMUD-2, EBMUD-3, EBMUD-6, EBMUD-7, and EBMUD-8.

Response to EBMUD-2
The comment is noted. EBMUD staff's interpretation of applicable policies indicates that it is staff's conclusion that the proposed Project is inconsistent with EBMUD Policies 3.01, 3.05, and 3.08. In contrast, Section 3.9 Land Use, of the RDEIR has also analyzed the matter in detail and concludes that the proposed Project can, in fact, be determined consistent with said policies. A definitive interpretation of the Project's consistency must be made by the EBMUD Board of Directors, who are the District's policy and decision-makers. The formal interpretation would be obtained by having the matter heard before the EBMUD Board via a procedure that is deemed appropriate by their staff. Nevertheless, the RDEIR includes substantial evidence documenting the basis upon which consistency could be determined. Please see RDEIR Section 3.9, Land Use, Population, and Housing, page 3.9-37. As a responsible agency, EBMUD would not formally be asked to make any such consistency determinations or to consider providing water service to the Project until after the County, as lead agency and the local land use authority, has exercised its discretion to both include the residential development component of the Project within the ULL and to approve the Project itself. Please also refer to Master Response 1: Water Supply and Distribution for additional discussion of the Project's consistency with EBMUD policies.

Response to EBMUD-3
It does not appear the referenced policies were adopted for the purpose of avoiding or mitigating an environmental effect. Rather, it appears they were adopted to reflect the EBMUD Board of Directors' priorities and objectives regarding annexations at the time of adoption. Thus, any purported inconsistencies with these policies would not result in a significant impact for CEQA purposes, and no further response is required.

Nevertheless, for informational purposes, the commenter is referred to Master Response 1: Water Supply and Distribution for a further discussion of the Project's consistency with EBMUD policies.

Response to EBMUD-4
See Response to EBMUD-3. Also see the water supply discussion in Section 3.13, Utilities and Service Systems, pp. 3.13-28 to 3.13-33, and the WSE (Appendix J), which documents the basis for concluding why there would be sufficient water supply to serve the Project as well as other present and planned developments during normal single-dry and multiple-dry years. See also Master Response 1: Water Supply and Distribution.

See also the edits made to Section 3.13, Utilities and Service Systems, as shown in Section 4 of this FEIR, Changes to the Recirculated EIR/Errata. The Section is revised to confirm removal of the CPUD option and focus on the EBMUD conservation offsets to demonstrate sufficient water supply.

This comment also asserts that the RDEIR and WSE provide an "incomplete" analysis of water supply, and thus do not adequately identify a sufficient water supply for the Project or show that the Project would not adversely affect water supply for District customers.

With respect to the adequacy of the CPUD water supply, see Master Response 1: Water Supply and Distribution, which explains that the CPUD option is no longer being pursued, as well as the Project's proposed approach to water supply. For the development of water supply through conservation offsets, see RDEIR Responses to Comments EBMUD-40 through -45.

Response to EBMUD-5
Please see Master Response 1: Water Supply and Distribution.

Response to EBMUD-6
As explained more fully in the WSE and in Master Response 1: Water Supply and Distribution (Subsection 2), the Project would be served by supplemental new water supplies that would result from the implementation of accelerated or expanded identified water conservation measures within the EBMUD service area. The proposed Project would not rely on EBMUD's current water supplies.

Response to EBMUD-7
The comment is noted. The RDEIR assumes a low participation rate in the interest of providing an environmentally conservative analysis. The RDEIR explicitly calls this out as an assumption for the purpose of making an environmentally conservative analysis (RDEIR Section 3.13 Utilities and Services Systems, page 3.13-26). It is understood that the Project would be treated the same as other EBMUD customers with respect to EBMUD drought restrictions if the Project is annexed into EBMUD's service area, and this is explicitly recognized in footnote 33 on page 2-12 of the WSE.

Response to EBMUD-8
The Project now proposes to utilize EBMUD water, subject to approval from the EBMUD's Board of Directors. Please refer to Master Response 1: Water Supply and Distribution. In addition, water treatment facilities and water distribution facilities are discussed Section 3.13, Utilities and Services Systems, on page 3.13-34 of the RDEIR. Among other things, the RDEIR notes that the Walnut Creek Treatment Plant has adequate capacity to serve the Project's estimated wastewater demand and that the Project would connect to the EBMUD facilities located in the Camino Tassajara right-of-way directly adjacent to the Northern Site, assuming approval by the EBMUD Board and approval of the proposed annexation (and related SOI amendment) by LAFCO. The County notes that EBMUD peaking factors used to evaluate distribution and treatment system capacity are based on historical conditions for the period 1995 to 2006, which do not reflect conservation-based or current technology and legal requirements. The use of these peaking factors understates future system capacity and is not appropriate for evaluating impacts from the Project. Please see also responses to RDEIR comments EBMUD-23, EBMUD-24, and EBMUD-25

The commenter states that there should also be an analysis of growth-inducing effects the Project may have in the greater Camino Tassajara Valley, including, for example, residences on Finley Road and the implications and impacts of obtaining water sources to serve the potential growth.

Growth-inducing impacts are discussed in Section 6, Other CEQA Considerations, on page 6-2 of the RDEIR. The Project proposes to extend utility services within the Residential Development Area only (and the water fountain and restrooms in the Pedestrian Service Area); other lands within the Project Site and outside the Project Site would remain outside the Contra Costa County ULL, and County Land Use Element Policy 3-10 discourages extension of urban services outside the ULL.

The Project proposes that EBMUD provide water service only for the 125 homes in the Residential Development Area and the water fountain and restrooms at the adjacent, approximately 0.19-acre pedestrian staging area. The RDEIR explains that the Project does not propose to extend urban infrastructure beyond the Residential Development Area and Pedestrian Staging Area or provide water anywhere else in the Tassajara Valley, including the existing residences on Finley Road. Accordingly, the proposed water supply approach for the Project would not remove an impediment to growth beyond the proposed Project or otherwise be growth-inducing, because it would not provide any new source of water to support any growth beyond the proposed Project. The amount of water to be funded through the proposed water conservation approach would sufficiently offset (as determined by the EBMUD Board of Directors) the proposed Project water demands only, and would not provide any new water supply available to support any new growth. See also Master Response 1: Water Supply and Distribution.

Response to EBMUD-9
As explicitly detailed in the WSE, Project-specific demand estimates are based upon the most recent statutory regulations, plumbing codes, appliance and fixture water use standards, and policies. A new single-family home built after 2016 would be expected to have a per-capita water use that is much lower than average water usage for homes built when plumbing codes and appliance standards were less stringent than today. The WSE detailed the basis for the assumed per-dwelling unit demands, citing current factors that continue to drive per-capita water demands lower, and was prepared using standard industry practices for preparing more rigorous Water Supply Assessments (as defined in California Water Code Section 10910, *et seq*.).

Please refer to Master Response 1: Water Supply and Distribution.

Furthermore, the analysis of impacts under CEQA is based on evaluation of substantial evidence concerning those impacts, and is subject to the land use authority's deference in making determinations when confronted with differences between experts. In preparing this FEIR, the County commissioned a letter report from an independent third party evaluating the potential water demand of the Project. The letter report is included in Appendix J and acknowledged the varying methodologies that may be used in determining demand. It then conducted the demand analysis using three different methodologies, and confirmed a range of potential water demand from approximately 48 AFY to approximately 92 AFY. However, the third party evaluation also identified 56.3 AFY as an appropriately conservative figure, while also taking into account modern technologies and conservation measures and various legal mandates to reduce water demand. As discussed further in Response to RDEIR EBMUD-14, the Project would be required to fully accommodate its water demand (as identified in the agreement with the EBMUD Board of Directors) through the expansion or acceleration of water conservation measures. This information provides further support for the existing discussion and analysis, and does not affect the conclusions of the RDEIR.

The County acknowledges that EBMUD would be the water purveyor for this Project (subject to approval by the EBMUD Board of Directors and LAFCO) and also acknowledges EBMUD's purview in setting the estimated demand based on its own historical data. Nevertheless, the County acknowledges the disagreement among experts and the possibility that the Project's water demand could fall somewhere between approximately 48 and 92 AFY. The County would condition the Project to fully accommodate the identified demand figure at a minimum of 56.3 AFY or the amount ultimately confirmed by EBMUD, whichever is greater (as set forth in a binding agreement with EBMUD) via the acceleration or expansion of water conservation measures. In addition, the County would condition the Project such that specified water conserving features and total limitations on demand would be part of obligations set forth in the Project's CC&Rs, and would provide that penalties could be levied against individual homeowners to ensure compliance. This is consistent with the method successfully used in the nearby Alamo Creek development.

The commenter also states that the Project's residential average annual demand was estimated by the Project sponsor to be 39 AFY or 34,814 gallons per day (gpd) for 125 single-family residential homes and up to 47 acre-feet or 41,956 gpd for the 125 residential units, a trailhead restroom, and streetscaping including non-revenue water and increased irrigation during a dry year. The revised WSE assumes that the Project would achieve all of the water conservation goals set by the County and the State of California, and also explains the basis for this conclusion. The revised WSE identifies further reductions in Project water demand by assuming that there would be 1,500 square feet of hardscape per lot. The result is the revised WSE reports Project demand between approximately 230 and 340 gpd/unit.

As discussed above, the WSE for the Project was prepared by recognized experts and peer reviewed, as appropriate, by the County's consultants. Given that EBMUD is the identified service provider and based on consultation with EBMUD in response to comments received, the County and the various technical consultants have sought to coordinate with EBMUD staff, as appropriate, regarding the methodologies and assumptions used in this EIR. The methodology for projections used by EBMUD staff is based on historical water demand information that reflects outmoded technologies and outdated water conservation policies. Necessarily then, using historic demand projections will not reflect current water-related building standards that mandate inclusion of features that result in high levels of water conservation.

Today, for example, the California Green Building Standards Code mandates water efficiency and conservation measures for both indoor and outdoor water use. This law requires new development to comply with the state's updated model water efficient landscape ordinance, which generates substantial water savings through water-saving landscape design, installation, and maintenance. As a result of these and other current legal requirements, the Project would be legally required to adhere to these more stringent updated conservation mandates, and thus would be prohibited from generating the higher water demand that historically occurred without these much more rigorous water conservation measures. Accordingly, the Tassajara Parks Project would only be allowed to generate the same -- substantially lower -- water demand evidenced by other more recent housing developments, such as the nearby Alamo Creek project.

The WSE described and applied those current, legally mandated water conservation standards and explained in detail how the Project's water demand was calculated. To the extent that the commenter asserts that all water demand calculations for planned future development involve uncertainties, the WSE addresses this concern by proposing to provide a water supply that would meet the Project's water demand with an ample margin of safety.

The revised WSE only modified the Project demands to reflect a revised evapotranspiration standard (ETo) that was provided by EBMUD staff during discussions in August 2016. All other assumptions remained the same. As stated in Response to Comment EBMUD-14 above, the WSE based water demand forecasts on current statutory regulations, plumbing code requirements, and appliance and fixture standards, and prepared the WSE using standard industry practices for preparing more rigorous Water Supply Assessments (under SB 610). The proposed Project would be required to meet these more stringent requirements, and it is appropriate for the analysis to assume that compliance with these standards would be ensured through the plan check and building permit process.

Response to EBMUD-10
The evaluation of infrastructure improvements in the RDEIR is based in part on the estimated water demands of the proposed Project, and as explained more fully in RDEIR Responses to Comments EBMUD-15 and -16, the estimated water demands of the proposed Project properly reflect consideration of present-day technology and water conservation policies. These demand estimates were then used in the evaluation of infrastructure improvement impacts (see, e.g., RDEIR Section 3.13, Utilities and Service Systems, pp. 3.13-34), which appropriately reflects the anticipated future capacity based on reasonable assumptions and methodologies. The County notes that EBMUD evaluates the capacity of its distribution infrastructure using peaking factors based on historical conditions for the period 1995 to 2006, which do not reflect conservation based on current technology and legal requirements. As such, the use of the EBMUD peaking factors is not appropriate for evaluating the incremental impact of the Tassajara Parks Project on existing distribution infrastructure, since the Project would be legally mandated to implement water efficiency and conservation measures for both indoor and outdoor water use. Using EBMUD's peaking factors would understate future system capacity; for this reason, it was explained in the WSE that the District's peaking factors were not used.

In addition, the use of peaking factors based on historical conditions for the period 1995 to 2006 (which do not reflect conservation based on current technology and legal requirements) would understate future system capacity and is not appropriate for evaluating impacts from the Project.

Response to EBMUD-11 through EBMUD 25
See Master Response 1: Water Supply and Distribution, which explains that the CPUD option is no longer being pursued. No further response is required.

Response to EBMUD-26
Based on discussion with EBMUD staff to address their July 13, 2016, comment letter, use of recycled water offsets was eliminated as a potential water supply source, and use of conservation water offsets was added as a potential water source at their suggestion. It is noted that accelerating implementation of Level D measures means that water supplies would be developed through

conservation earlier than they would have been under the 2040 Water Supply Management Program, resulting in new water.

Water conservation offsets may be required to have offsets at some multiple of the demands to be offset. To the extent that EBMUD requires such a multiple, the benefits of new water generated by bringing conservation online earlier would also be multiplied.

Response EBMUD-27
See Response to EBMUD-26. Use of recycled water offsets is no longer being pursued.

Response to EBMUD-28
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

However, for informational purposes, the following response is provided. It is acknowledged that the proposed water supply approach through water conservation offsets would trigger the need for a petition to the State Water Board to change the place of use of EBMUD's water rights. In addition, the County notes that Section 2, Project Description, page 2-41 of the RDEIR, lists the State Water Board as a Responsible Agency. Additionally, Section 2.6 of the RDEIR is hereby amended to clarify that State Water Board approval of EBMUD's change petition would be required.

Response to EBMUD-29
The commenter noted that EBMUD staff would be available to discuss water supply strategies. No further response is required.



East Bay Regional Park District

2950 PERALTA OAKS COURT P.O. BOX 5381 OAKLAND CALIFORNIA 94605-0381 T: 1-888-EBPARKS F: 510-569-4319 TRS RELAY: 711 WWW.EBPARKS.ORG

July 18, 2016

Department of Conservation & Development
Community Development Division
Attn: John Oborn
30 Muir Road
Martinez, CA 94553

RE: Draft Environmental Impact Report for the proposed Tassajara Parks Project

Mr. Oborn,

The East Bay Regional Park District (EBRPD) appreciates the opportunity to provide comments on the Draft Environmental Impact Report (EIR) on the proposed Tassajara Parks project. The District has commented on previous development proposals in the Tassajara Valley for over a decade, including the former "New Farm" project.

The project has been revised significantly from the former "New Farm" project. The current project proposes the development of 125 single-family residential units clustered on 30-acres of the "Northern Site" located north of Camino Tassajara, east of the existing Town of Danville City Limits. The remaining 101 acres of the Northern Site would be dedicated as open space and include two staging areas and a trail. The current project proposes use of seven acres of the Southern Site of the Southern Site by San Ramon Valley Fire Protection District and the remaining 606-acres of the Southern Site would be dedicated to EBRPD for permanent park, recreation, and open space uses. 1

This revised proposal significantly reduces the potential for the aesthetic, biologic, traffic, and growth inducing impacts associated with past proposals on this site while providing for the permanent protection of much of Tassajara Valley. We appreciate the applicant's willingness to address the many concerns raised by the District and other stakeholders regarding this project site. The revised proposal will result in the development footprint being permanently surrounded by dedicated open spaces ensuring that urban growth cannot encroach into the Tassajara Valley.

The District would like to provide the following comments on the DEIR:

1. Conservation Easement – The project proposes to place a Conservation Easement over 175.4 acres of the Southern Site that is proposed to be conveyed to the District. The developer should coordinate closely with the District in determining the location and management prescriptions for the Conservation Easement to ensure that resource protection is maximized while ensuring operational and management consistency with the remainder of the property. The District should be consulted throughout the development of the Long Term Management Plan for the Conservation Easement area. 2

Board of Directors

Doug Siden, President, Ward 4
Beverly Lane, Vice-President, Ward 6
Dennis Waespi, Treasurer, Ward 3
Diane Burgis, Secretary, Ward 7
Whitney Dotson, Ward 1
John Sutter, Ward 2
Ayn Wieskamp, Ward 5
Robert E. Doyle, General Manager

2. Northern Site Trail – The DEIR evaluates the potential development of a trail in the Northern Preservation Area that would connect the two proposed staging areas. The project proposes to grant a perpetual easement to EBRPD for the purposes of future construction of this trail. It should be noted that the exact alignment and feasibility of that trail will need to be evaluated and any future easements would need to be floating easements to allow for adjustments to be made as necessary in the trail alignment to address biologic and site constraints. Additionally, p. 2-41 states that the trail would be a gravel trail. It would likely be a natural surface trail and the text should be revised as such. 3

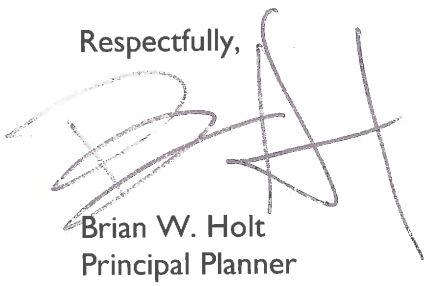
3. Preliminary Landscaping Plan – The Preliminary Landscaping Plan, Exhibit 2-11, includes a call out for the trail that it would be a "Connection to Mt. Diablo". This call out should be revised to note that this is a potential future connection to Mt. Diablo. Additional land acquisitions, easements, or other agreements would need to be secured to ensure that the trail connects to Mt. Diablo State Park. 4

4. Cumulative Projects: Table 4-1: Cumulative Projects needs to be updated. The Podva Property residential development is listed as under review. The project has been approved and is currently under construction. The Magee Ranch project is listed being approved; unbuilt. This project approval was rescinded by the Town of Danville. 5

5. Park and Recreation Facilities – P 4-12, last paragraph, states that 710 acres of the project site would be conveyed to EBRPD. This number is incorrect and should be updated. 609 acres of the Southern Site would be conveyed to EBRPD. The remaining undeveloped 101 acres of the Northern Site would be retained as open space to be owned by a Geologic Hazard Abatement District. 6

Thank you again for the opportunity to review the DEIR and provide comments. The District looks forward to working with the County and the applicant should this project gain approval of the County Board of Supervisors. Please feel free to contact me at (510) 544-2623 or bholt@ebparks.org. 7

Respectfully,



Brian W. Holt
Principal Planner

Cc: Beverly Lane, Director
Robert Doyle, General Manager

East Bay Regional Park District (EBRPD)

Response to EBRPD-1
The commenter provides introductory remarks and understanding of the Project. No further response is required.

Response to EBRPD-2
The County and applicant would be required to coordinate and consult with EBRPD (as well as the resource agencies) on the location and management prescriptions for the Conservation Easement over the Southern Site. No further response is required.

Response to EBRPD-3
RDEIR Section 2, Project Description, page 2-13, contains updated text to clarify the intent for the trail easement. Page 2-31 of the RDEIR clarified that the trail would be natural surface, as suggested by the commenter. However, as further explained in the Errata to the FEIR, rather than merely providing the trail easement, the applicant is proposing to dedicate in fee 101 acres of the Northern Site to the EBRPD for the permanent preservation of these lands (along with 609 acres of the Southern Site) for open space, park, recreational and other non-urban uses.

Response to EBRPD-4
The Preliminary Landscaping Plan has been revised to include a call out for the Potential Future Connection to Mt. Diablo. It is numbered as Exhibit 2-8 “Preliminary Landscaping Plan” in the RDEIR. Please refer to Section 2, Project Description, page 2-27 of the RDEIR.

Response to EBRPD-5
RDEIR Section 4, Cumulative Effects, Table 4-1, Cumulative Projects, includes the updated project information for the Podva Property residential development. The Magee Ranch project status has been updated in this FEIR. These updates do not alter the analysis or conclusions of the cumulative analysis, or otherwise trigger recirculation.

Response to EBRPD-6
As shown in the RDEIR, the paragraph has been updated to correctly reflect that approximately 609 acres of the Southern Site would be conveyed to EBRPD. In addition, as further explained in the Errata to the FEIR, the applicant is proposing to dedicate in fee 101 acres of the Northern Site to the EBRPD for the permanent preservation of these lands (along with 609 acres of the Southern Site) for open space, park, recreational and other non-urban uses.

Response to EBRPD-7
The commenter appreciates the opportunity to provide comments on the Project. The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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GREENBELT ALLIANCE

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July 18, 2016

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Department of Conservation and Development
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Dear Mr. Oborne:

RE: Tassajara Parks Project Draft Environmental Impact Report

Thank you for providing the opportunity for Greenbelt Alliance to comment on the Draft Environmental Impact Report (DEIR) for the proposed Tassajara Parks project (Project).

Greenbelt Alliance provided comments on the Agency Comments Request and the Notice of Preparation (NOP) for the Project (see attachments), and we incorporate the attachment comments as part of this letter. Many of the comments in this letter relate to concerns we have raised before and believe the DEIR fails to appropriately address in the DEIR.

The DEIR fails to adequately disclose and describe significant environmental impacts of the Project, and Contra Costa County cannot legally approve the Project based upon this inadequate DEIR. Many direct and cumulative impacts of the Project are inadequately described, including the lack of adequate project alternatives; impacts on water supply, growth inducement, loss of critical habitat, and generation of traffic and air pollution; and the inadequate description of the effects on Contra Costa County's general plan and growth management policies from the expansion of the County's voter-approved Urban Limit Line (ULL). 1

Several items deserve particularly close attention in the Draft Environmental Impact Report (DEIR):

DEIR Fails to Provide Appropriate Alternatives for Public Review

The DEIR provides an inadequate range of alternatives that leaves off feasible alternatives providing reduced impacts compared to accommodating growth outside of the voter-approved ULL through the proposed project. In Greenbelt Alliance's NOP comments dated July 11, 2014, we recommended that due to the lack of "clear need for this type of sprawl development in a location that would require expansion of the voter-approved ULL…The DEIR should therefore examine project alternatives that accommodate the anticipated amount of development entirely within urbanized areas and within voter-approved ULLs and municipal city boundaries. The project objectives for the DEIR should be drafted in a manner that supports such off-site project alternatives." The current alternatives in the DEIR fail to take these considerations into account, merely suggesting that the project site either have "reduced intensity" or no project at all. Significant impacts associated with expanding the ULL and building this project would not occur through an alternative of development within city limits that the DEIR fails to analyze, despite being advised in advance that it should include that alternative. 2

Contra Costa County voters approved the ULL for the reason of directing urban development within voter-approved growth boundaries. Without a proper analysis of vacant land within existing urban areas, and an alternative that shows how to accommodate urban development within the ULL, there can be no demonstrable reason to advance a project that undermines the terms set by voters of Contra Costa County. This is further evidenced by the selection of a minor adjustment finding that relates to the agricultural preservation and not the need for housing or urban development outside of the ULL.

2 CONT

Indeed, the DEIR details just how much land within the ULL is available for development:

> "As indicated by the Contra Costa County Department of Conservation and Development's geographic Information Systems (GIS) mapping system, there are over 8,000 acres of non-urban designated land within the ULL that could be eligible for conversion to urban use designations without causing the County to exceed its 65/35 Land Preservation Standard (Contra Costa County 2013" (DEIR 3.9-32)

3

The DEIR should be recirculated with an additional alternative that shows how the development could be accommodated within the 8,000 acres of eligible land inside the ULL. A recirculated DEIR should also compare this alternative with the proposed Project in terms of relevant data on air pollution, vehicle miles traveled, greenhouse gases, and other factors related to growth-inducing impacts so that the public can adequately understand how this unprecedented project will impact Contra Costa County's ability to comply with its own policies, regional goals to accommodate all growth within existing urban areas, as well as state law.

<u>DEIR Fails to Address the Significant Growth Inducing-Impacts</u>

The DEIR does not provide sufficient evidence to conclude that the project will not induce further growth outside of the ULL. Indeed, the DEIR neglects to analyze several key elements of the Project that have the greatest likelihood of inducing additional auto-oriented suburban-style growth, both inside and outside of the County's ULL.

At its core, the DEIR catastrophically fails to address the full range of growth inducing-impacts that moving the ULL and urban services will produce. The DEIR disingenuously states that "the Project would not extend urban services into areas outside the ULL and would not result in growth-inducing infrastructure." (DEIR 3.9-29) In fact, the Project itself will move the ULL and urban services. The DEIR apparently presumes that the ULL has already been moved, a blatant disregard for current conditions and the project description itself. This is exactly the reason why the DEIR must carefully review growth-inducing impacts. The Project assumes it will be the final project to use a minor adjustment in the Tassajara Valley, which is wholly inconclusive and misleading to the public.

4

The DEIR also fails to analyze specific projects that have a very high likelihood of inducing future sprawl development and automobile traffic. The Project will include the following road widening projects along Camino Tassajara:

> "Camino Tassajara would be widened by approximately 12 feet to accommodate an additional travel lane starting from the southeast property line and continuing towards "A" Street (approximately 1,800 feet). An approximately 250-foot-long, 4-foot high retaining wall would be required beyond the roadway edge in order to eliminate any potential impacts to an existing wetland along the north side of Camino Tassajara. The retaining wall would be located at the far southeast corner of the Northern Site (Exhibit 2-6). The

5

remainder of the road widening would require conform slope down to the existing grade, all within the proposed 3.18-acre right-of-way dedication." (DEIR 2-43)

Other than this description, the road widening's potentially significant impacts are entirely absent in key chapters relating to transportation and traffic, air quality, biological resources, among others. Moreover, the DEIR does not properly map or describe the road widening's relationship with the Project or the ULL. Even worse, the DEIR does not analyze how it could induce future urban development and traffic along Camino Tassajara inside and outside of the ULL. This growth could occur because the road widening will under some circumstances accommodate more traffic than that generated by the Project, making that additional growth more likely. The DEIR provides no information to demonstrate that the road widening project is in compliance with the Contra Costa Transportation Authority's Countywide Transportation Plan (CTP) and the voter-approved provisions of Measure J-2004. 5 CONT

The DEIR's analysis of growth-inducing impacts is deeply flawed. A recirculated DEIR should also evaluate the full range of impacts that may result from this type of induced growth, including the widening of Camino Tassajara and how this type of growth could undermine possibilities for infill development that would better address the region's housing needs. A recirculated DEIR should also carefully review the road widening's compliance or non-compliance with the current CTP and Measure J-2004. 6

DEIR Fails to Analyze and Mitigate Irreversible Impacts on Biological Resources

The DEIR neglects to properly analyze the effects of the Project on critical biological resources. For example, the DEIR fails to provide focused adult studies of the Project's impacts on California Tiger Salamander, yet the DEIR provides conclusions on the impacts. Additionally, the DEIR provides no evidence to support the determination that 11 out of 12 California Black Walnuts that will be irreversibly impacted were not considered in good condition. 7

The DEIR fails to analyze the effects that the road widening and the grading and construction of the 250-foot-long retaining wall would have on biological resources. This oversight is particularly acute because the retaining wall is intended to "eliminate any potential impacts to an existing wetland along the north side of Camino Tassajara." It can only be assumed that the construction of the project will undermine its very purpose to protect biological resources. Furthermore, no mitigations are included for these major transportation projects. A recirculated DEIR must analyze these potentially significant impacts to biological resources.

DEIR Fails to Address Major Concerns with the Provision of Water, Drought Conditions, and Climate Change

New development within the Tassajara Valley could significantly impact local and regional water supplies, groundwater, water recharge capacity, water quality, and riparian and aquatic habitats. These environmental services are already in high demand and are projected to be at increasing risk due to the effects of climate change.[1] The DEIR fails to address a range of issues related to water, but the treatment of drought and climate impacts are particularly flawed. 8

Detailed current and future drought conditions in the State of California need to be considered as part of the proposed Water Supply Assessment and DEIR, especially due to increasing climate change effects. However, the

[1] For example, see the forthcoming Fourth California Climate Change Assessment from the California Natural Resources Agency http://resources.ca.gov/climate_adaptation/fourth.html.

DEIR fails to adequately address and incorporate climate change data to inform the public. The data provided is unclear and does not detail how often measurements were taken (i.e. once a month, every day, etc.). The data also uses outdated timeframes that skew results and do not provide a clear indication of current climate indicators. Astonishingly, there is no mention of projected increases in temperatures or decreases in rainfall, both of which are predicted by much of the scientific community. The omission of this data gives a false impression that purchased water rights are forever guaranteed. The failure to describe the impact of reduced water availability due to climate change is a foreseeable impact of this Project that is not described in the DEIR, and the failure to mitigate for that reduced availability allows impacts proscribed by CEQA.

8 CONT

The DEIR also uses inadequate measurements and methodology to analyze drought conditions. Overall, the DEIR only reviews the drought conditions on a short-term basis. For instance, the DEIR fails to account for more than three years of dry years, which is grossly inadequate considering that major drought events are much more likely in future years due to climate change. In fact, the State of California is currently experiencing major drought conditions that are ongoing for more than three years. Additionally, the DEIR makes unjustifiable assumptions for actions to be taken during multiple dry years (e.g. how much the water purveyor will request for cutbacks). These questions must be thoroughly analyzed in a recirculated DEIR.

The DEIR must also address the impacts that reallocating water from a different district will have on the Area of Origin. The DEIR fails to take our NOP comments into account and neglects to include an evaluation of the environmental, economic, and social justice impacts to the Areas of Origin for the proposed water supply.

9

<u>DEIR Fails to Adequately Measure and Mitigate the Project's Significant Impacts on Air Pollution, Greenhouse Gas Emissions, Vehicle Miles Traveled, and Traffic.</u>

While the DEIR describes significant impacts that the physical development of the Project site would have on air quality, crucially it fails to analyze and mitigate for the implementation of the Project and the direct and cumulative impacts that hundreds of additional daily vehicular trips will have on air quality. As Greenbelt Alliance stated in our previous NOP letter, "the construction and implementation of this suburban-style project in the Tassajara Valley would create levels of air pollution that have a significant impact on local air quality and contribute significantly to climate change. The proposed project, located far from reliable public transit, will clearly increase vehicle miles traveled (VMTs) and consequently increase the generation of GHGs." The DEIR categorically fails to analyze and mitigate the impacts of daily vehicular trips from an additional 125 housing units outside of the ULL and how they would impact air quality and contribute to climate change. The DEIR enumerates policies on climate change, but neglects to analyze any Project-specific data to show that it will help to meet Contra Costa County's contribution to meet state law under AB 32, SB 375, and subsequent executive orders to reduce VMTs and GHG.

10

As mentioned above, the widening of Camino Tassajara would likely induce further growth and automobile traffic on a heavily traveled corridor dominated by single-occupant vehicles. It is shocking to find that neither the Air Quality nor the Transportation and Traffic sections of the DEIR make even a single reference to impacts from road widening causing increased traffic. This is particularly egregious given that the state transportation agency, CalTrans, has affirmed the overwhelming evidence that adding additional travel lanes will induce greater volumes of traffic, which in turn will increase VMT and air pollutants.[2] In order to meet the aggressive state targets for AB32 and SB375, CalTrans 2040 states that California must double transit ridership and significantly offset single-occupant vehicles. Not only does the DEIR miserably fail to analyze the air pollution, greenhouse gas emissions, and vehicle miles traveled from the Project alone, it entirely neglects to address the impacts of road

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[2] http://www.citylab.com/commute/2015/11/californias-dot-admits-that-more-roads-mean-more-traffic/415245/

widening projects on these factors as well. The DEIR must be recirculated with detailed analysis and mitigations for the significant immediate and cumulative impacts that road widening will have on Contra Costa County and the State of California. 11 CONT

As a result of this fundamental flaw, the Transportation and Traffic chapter of the DEIR must be entirely reanalyzed. There is no way to accurately capture circulation and traffic without analyzing the cumulative impacts of road widening projects. Furthermore, the DEIR should consider mitigation measures that would actually achieve targets set by the County, other than merely paying fees and funding signal timing changes along Camino Tassajara. There are more effective and viable transportation demand management strategies and mitigations that should be considered in a recirculated DEIR. For instance, the DEIR should carefully review the availability of transit to the Project. Currently, the DEIR makes unsubstantiated claims about transit options for residents while providing no relief to the dependence on automobile travel: 12

> "While no transit currently serves the Project Site, County Connection operates flex service in the vicinity of the Project and TRAFFIX school bus service operates in the vicinity of the Project Site. Annexation into the CSA-T-1 district is expected for the Project Site, thus, flex and TRAFFIX service would be extended." (DEIR 3.12-87)

The DEIR should give unequivocal assertions about the availability of transit and should consider providing funding for transit agencies to offset their existing travel patterns to serve residents of the proposed Project.

Greenbelt Alliance concludes that this DEIR is deeply flawed and fails to analyze the full range of impacts from its precedent-setting urban development outside of Contra Costa County's Urban Limit Line. We look forward to reviewing the recirculated DEIR that adequately analyzes the Project's impact on the county and the State of California. 13

Sincerely,

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Greenbelt Alliance
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July 11, 2014

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Submitted via email: john.oborne@dcd.cccounty.us

Dear Mr. Oborne,

RE: NOP for Tassajara Parks

Thank you for providing the opportunity for Greenbelt Alliance to comment on the Notice of Preparation for the proposed Tassajara Parks project (Project).

We encourage Contra Costa County to conduct a thorough review of all potential impacts of the project. We are concerned about many direct and cumulative impacts of the project, including impacts on water supply and quality, growth inducement, loss of critical habitat, generation of traffic and air pollution, and disturbance of scenic viewsheds, as well as the effects on Contra Costa County's general plan and growth management policies from the expansion of the County's voter-approved Urban Limit Line (ULL).

Several items deserve particularly close attention in the Draft Environmental Impact Report (DEIR):

Examine the full range of impacts from expanding the voter-approved ULL

The project proposes to expand the ULL by 30 acres to permit residential development on lands currently outside the ULL and therefore off-limits to major development. The DEIR must thoroughly study the full range of impacts from this proposed ULL expansion, detailing the anticipated impacts on 1) the project area, 2) the Tassajara Valley, and 3) Contra Costa County more broadly. The DEIR should examine how approval of the project could lead to subsequent 30-acre ULL adjustments, and examine the potential environmental impacts of these subsequent adjustments, including impacts to farmland, ranchland, open space, and scenic viewsheds.

Furthermore, the DEIR should analyze the impacts that a ULL expansion will have on existing environmental protection and growth management policies, including those in the Contra Costa County General Plan, Measure C-1990 (65/35 Land Preservation Ordinance), Measure J-2004 (CCTA Transportation Sales Tax), Measure L-2006 (County Urban Limit Line), and other voter-approved measures. In particular, the DEIR should analyze whether the project violates the

growth management requirements of Measure J-2004 and assess whether approval of the project could therefore jeopardize Contra Costa County's Measure J-2004 "return-to-source" funding.

Address all components of the project

The DEIR must address the whole of the project and not address the project in a piecemeal fashion. Therefore any analysis must include all components of the project, including any actions that facilitate the adjustment of the ULL, provide water to the project, or in any other way remove a barrier to project approval.

Appropriately scope project alternatives and objectives

There is no clear need for this type of sprawl development in a location that would require expansion of the voter-approved ULL. The DEIR should therefore examine project alternatives that accommodate the anticipated amount of development entirely within urbanized areas and within voter-approved ULLs and municipal city boundaries. The project objectives for the DEIR should be drafted in a manner that supports such off-site project alternatives.

Thoroughly examine growth inducement

This project appears likely to induce additional auto-oriented suburban-style growth, both inside and outside of the County's ULL. The DEIR should evaluate the full range of impacts that may result from this type of induced growth, including how this type of growth could undermine possibilities for infill development that would better address the region's housing needs.

Carefully scope and study the project's provision of water

New development within the Tassajara Valley could significantly impact local and regional water supplies, groundwater, water recharge capacity, water quality, and riparian and aquatic habitats. These environmental services are already in high demand and are projected to be at increasing risk due to the effects of climate change.[1] Current and future drought conditions in the State of California need to be considered as part of the proposed Water Supply Assessment and DEIR. Demands on wastewater treatment systems could also be significant. These impacts must be addressed in the DEIR for the project.

The DEIR must carefully examine the proposed water source to ensure that any water rights secured by the project proponents will actually be available when needed, considering all environmental and policy constraints, so that the project is not relying on mere "paper water." The proposed Water Supply Assessment must also include an evaluation of the environmental, economic, and social justice impacts to the Areas of Origin for the proposed water supply.

The recently-withdrawn New Farm project—proposed on these same parcels—did not include a plan for the provision of water. In a time of significant statewide water shortage and drought, the Tassajara Parks plan for obtaining and distributing water—and the effects of those actions—should be carefully studied in the earliest stages of the environmental analysis to inform all pertinent aspects of the DEIR.

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[1] For example, see the forthcoming *Fourth California Climate Change Assessment* from the California Natural Resources Agency http://resources.ca.gov/climate_adaptation/fourth.html.

Thoroughly examine air pollution, greenhouse gas emissions, and vehicle miles traveled

The construction and implementation of this suburban-style project in the Tassajara Valley would create levels of air pollution that have a significant impact on local air quality and contribute significantly to climate change. The proposed project, located far from reliable public transit, will clearly increase vehicle miles traveled (VMTs) and consequently increase the generation of GHGs. Development and disturbance of vegetated portions of the project site would significantly decrease the site's current and potential biological carbon capture capacity. The inducement of additional development in other areas outside the ULL would exacerbate these impacts.

This anticipated increase in air pollution, GHGs, and VMTs would negatively impact the region's ability to achieve the environmental goals of AB 32 of 2006 (Nunez and Pavley), Executive Order S-03-05 and SB 375 of 2008 (Steinberg). It would also interfere with achievement of Contra Costa County's commitment to reduce countywide GHG emissions to 80% below baseline levels by 2050 (See County Resolution 2007-541 adopting U.S. Cool Counties Climate Stabilization Declaration). Additional VMT would also negatively impact the local and regional transportation system. The DEIR should examine these impacts, specifically addressing whether the project will help or hinder the region in meeting the goals and objectives of AB 32, S-03-05, and SB 375 and the County's ability to achieve Resolution 2007-541. In addition, comprehensive mitigations and alternatives must be considered in the DEIR to allow the public to fully assess opportunities to avoid or mitigate the air quality, GHG, and VMT impacts of the project.

Thoroughly examine potential conflicts with *Plan Bay Area*

The DEIR should investigate how the project will impact attainment of the goals and policies outlined in *Plan Bay Area*, the region's recently-adopted Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS). *Plan Bay Area* calls for accommodating the next generation of development entirely within existing ULLs and shifts regional funding priorities to support development near the region's transit resources. The DEIR must examine how this proposal to develop land outside the existing voter-approved ULL will impact *Plan Bay Area* implementation in Contra Costa County and throughout the nine-county Bay Area region.

Thank you again for this opportunity to comment on the NOP for the Tassajara Parks Project.

Sincerely,

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March 28, 2014

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Submitted via email: john.oborne@dcd.cccounty.us

Dear Mr. Oborne,

RE: Agency Comment Request for Tassajara Parks

Thank you for providing the opportunity for Greenbelt Alliance to comment on the Agency Comment Request for the Tassajara Parks project (Project). Please continue to notify us of any future developments of this project.

We encourage Contra Costa County to conduct a thorough review of all potential impacts of the project, beginning with the preparation and distribution of a Notice of Preparation (NOP).

We are concerned about many direct and cumulative impacts of the project, including air pollution, growth inducement, traffic, rangeland and open space loss, and disturbance of scenic viewsheds, as well as the effects on Contra Costa County's general plan and growth management policies from the adjustment of the County's voter-approved Urban Limit Line (ULL).

Several items deserve particularly close attention in the NOP and DEIR:

<u>Examine the full range of impacts from moving the voter-approved ULL</u>

The NOP & DEIR must specifically scope and study the full range of impacts of the ULL adjustment on the project area, the Tassajara Valley, and on Contra Costa County more broadly, especially with regards to cumulative impacts of growth inducement, traffic, and significant impacts to farmland, ranchland, open space, and scenic viewsheds.

Furthermore, the NOP & DEIR should include analysis of the impacts that this action will have on County General Plan policies, including Measure C-1990's 65/35 Land Preservation Ordinance, Measure J-2004, Measure L-2006, and other voter-approved policies addressing environmental protection and growth management.

Address all components of the project

The NOP and DEIR must address the whole of the project and not address the project in a piecemeal fashion. Therefore any analysis must include all components of the project, including any actions that facilitate the adjustment of the ULL, provide water to the project, or in any other way remove a barrier to project approval.

Carefully scope and study the project's provision of water

New development within the Tassajara Valley would significantly impact local and regional water supplies, groundwater, water recharge capacity, water quality, and riparian and aquatic habitats. These environmental services are already in high demand and are projected to be at increasing risk due to the effects of climate change.[1] Demands on wastewater treatment systems could also be significant. These impacts must be addressed in the NOP & DEIR for the project.

The DEIR must carefully examine the proposed water source to ensure that any water rights secured by the project proponents will actually be available when needed, considering all environmental and policy constraints, so that the project is not relying on mere "paper water." This analysis must also include an evaluation of the environmental, economic, and social justice impacts to the Areas of Origin for the proposed water supply.

The recently-withdrawn New Farm project—proposed on these same parcels—did not include a plan for the provision of water. In a time of significant statewide water shortage and drought, the Tassajara Parks plan for obtaining and distributing water—and the effects of those actions—should be carefully studied in the earliest stages of the environmental analysis.

Appropriately define project objectives and alternatives

There is no clear need for this type of project in this location. The project would require expansion of the voter-approved ULL and could induce further development nearby, among other impacts. The project objectives for the NOP & DEIR should be defined broadly enough so that project alternatives can be examined that offer choices for accommodating new development within urbanized areas and within voter-approved ULLs and municipal city boundaries.

Thoroughly examine growth inducement

This project appears likely to induce additional auto-oriented suburban-style growth, both inside and outside of the County's ULL. The DEIR should evaluate the full range of impacts that may result from this type of induced growth, including how this type of growth could undermine possibilities for infill development that would better address the region's housing needs.

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[1] The Oakland-based Pacific Institute has prepared a comprehensive database of scientific literature pertaining to climate change and freshwater resources worldwide. The current version contains more than 4,300 entries: http://biblio.pacinst.org/biblio/

Thoroughly examine air pollution, greenhouse gas emissions, and vehicle miles traveled

The DEIR must examine how the project will impact the ability to reduce greenhouse gas emissions and air pollution and meet local, regional, and state climate change goals.

The construction and implementation of this suburban-style project in the Tassajara Valley would create levels of air pollution that have a significant impact on local air quality and contribute significantly to climate change. Development and disturbance of vegetated portions of the project site would significantly decrease the site's current and potential biological carbon capture capacity. This anticipated increase in air pollution, greenhouse gas emissions (GHGs), and vehicle miles travelled would negatively impact the region's ability to achieve the environmental goals of AB 32 of 2006 (Nunez and Pavley), Executive Order S-03-05 and SB 375 of 2008 (Steinberg). It would also interfere with achievement of Contra Costa County's commitment to reduce countywide GHG emissions to 80% below baseline levels by 2050 (See County Resolution 2007-541 adopting U.S. Cool Counties Climate Stabilization Declaration1). Additional vehicle miles traveled would also negatively impact the local and regional transportation system. The DEIR should examine these impacts, specifically addressing whether the project will help or hinder the region in meeting the goals and objectives of AB 32, S-03-05, and SB 375 and the County's ability to achieve Resolution 2007-541.

Likewise the DEIR should investigate how the project will impact attainment of the goals and policies outlined in *Plan Bay Area*, the region's recently-adopted Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS). *Plan Bay Area* calls for accommodating the next generation of development entirely within existing ULLs and shifts regional funding priorities to support development near the region's transit resources. The DEIR must examine how the Tassajara Parks proposal to develop land outside the existing voter-approved ULL will impact *Plan Bay Area* implementation in Contra Costa County and throughout the nine-county Bay Area region.

Thank you again for this opportunity to comment on the Agency Comment Request for the Tassajara Parks Project.

Sincerely,

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Organizations

Greenbelt Alliance (GREENBELT) July 14, 2016, and July 11, 2014

Response to GREENBELT-1
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

The commenter does not further elaborate on why the Project Description is invalid. Please see Section 2 (Project Description) for a detailed description of the Project.

The RDEIR fully evaluates the Project's potential impacts with respect to water supply and growth inducement. For an analysis of potential impacts to water supply, please see RDEIR Section 3.13, Utilities and Service Systems, pp. 3.13-28 through 3.13-33, as well as the detailed analysis set forth in Appendix J (WSE). For an analysis of growth-inducing impacts, see RDEIR Section 6, Other CEQA Considerations, page 6-2, Growth Inducing Impacts.

Please also refer to Master Response 2: Agricultural Preservation Agreement.

Response to GREENBELT-2
Off-site alternatives would not necessarily be more likely to reduce significant unavoidable impacts; rather, they would shift Project traffic and related impacts to other locations. The selection of alternative locations considered in the EIR was appropriately limited to sites similar to (i.e., within or adjacent to the ULL on agriculturally designated land) and in proximity of the project (in the San Ramon, Danville, Blackhawk area). These limitations were established to ensure alternative sites considered could potentially meet at least some of the project objectives, including the preservation of agricultural land, provision of a buffer between urban and non-urban uses, and provision of significant amounts of open space. As such, the off-site alternatives considered but rejected from further analysis were selected to carefully balance the potential to reduce impacts, the ability to provide land area for a project similar to that of the Project, and the ability of a project on that site to meet project objectives. Further discussion of reasoning behind the criteria used for selecting alternative locations is provided on RDEIR Section 5, Alternatives to the Proposed Project, page 5-10.

As noted in the RDEIR Section 5, Alternatives to the Proposed Project, two off-site location alternatives were rejected from further consideration. The off-site alternatives, while partially within the ULL, were ultimately infeasible due to the fact that the Project applicant does not own, control, or otherwise have access to the site and the ability of the applicant to gain ownership is speculative. Furthermore, adjustment of the ULL would be completed as allowed by, and in in compliance with all County Ordinance Code regulations.

Response to GREENBELT-3
Please refer to Master Response 5: Growth Inducement.

Response to GREENBELT-4
The Commenter misstates the requirements under CEQA with respect to the issue of growth inducement. The purpose of CEQA does not require that an EIR state that no growth inducement would occur. Rather, CEQA requires an evaluation of whether growth inducement will occur. The

RDEIR contains a thorough analysis of this issue, see Section 6, Other CEQA Considerations, page 6-2 and Master Response 5: Growth Inducement.

Response to GREENBELT-5

The RDEIR includes updated information regarding the widening of Camino Tassajara and related potential effects. See Section 2, Project Description, Exhibit 2-7 and the related discussion of the proposed road widening on page 2-33 of the Project Description. The road widening would occur within the footprint of the existing Northern Site. As described in the RDEIR, to reflect already-established policies in the County's General Plan, Tassajara Road would be widened by approximately 12 feet to accommodate an additional travel lane starting from the southeast property line and continuing approximately 1,800 feet. An approximately 250-foot-long, 4-foot-high retaining wall would be required beyond the roadway edge in order to eliminate any potential impacts to an existing wetland and associated species along the north side of Camino Tassajara. (See Exhibit 2-7 and the related discussion in the Biological Resources section of the RDEIR at page 3.4-75.) The remainder of the road widening would require a conform slope down to the existing grade, all within the proposed 3.18-acre right-of-way dedication, which has been included in the County General Plan (see discussion in RDEIR Section 3.9, Land Use, Population, and Housing, on page 3.9-42).

Additionally, the existing Class II bicycle lanes along Camino Tassajara from the Ballfields westwards would be preserved with implementation of the Project. A bike lane would also extend along the Northern Site's entire frontage, in conformance with the Contra Costa Countywide Bicycle and Pedestrian Plan, which would improve roadway safety in the vicinity of the Project Site.[7]

As described in Section 6, Other CEQA Considerations, on page 6-2 subsection 6.2, Growth Inducing Impacts, indirect growth inducing impacts normally involve a new roadway, or extension of utilities. The road widening would not constitute one of these conditions. For these reasons, the proposed road widening is adequately evaluated in RDEIR, and no further analysis is required.

Response to GREENBELT-6

The Draft EIR was recirculated and the RDEIR provides additional information related to Camino Tassajara as described in GREENBELT-5, above. The widening of Camino Tassajara along the project frontage includes creation of a bike lane, in compliance with the "Camino Tassajara Bikeway" identified in the CTP and the Contra Costa Countywide Bicycle and Pedestrian Plan. See also Master Response 2: Agricultural Preservation Agreement for a discussion of the effects of implementation of the Agricultural Preservation Agreement (formerly referred to as the MOU).

Response to GREENBELT-7

As indicated in RDEIR Section 3.4, Biological Resources, focused surveys conducted in accordance with USFWS guidance were conducted for California Tiger Salamander. The surveys identified larvae and therefore, since the presence of California tiger salamander is assumed on the site, no additional protocol surveys (for adult specimens) were completed. Implementation of Mitigation Measure BIO-1b would appropriately reduce potential impacts to CTS.

[7] Contra Costa Transportation Authority (CCTA), 2009 Contra Costa Countywide Bicycle and Pedestrian Plan, Table 15.

Evidence to support the determination that 11 out of 12 California black walnuts located on the Northern Site are not considered in good condition was included in the Arborist Report prepared for the Project, and is included as Appendix C-3 of the RDEIR.

Potential environmental impacts of the construction of the additional travel lane on Camino Tassajara have been considered throughout the RDEIR, as evidenced by its inclusion within Table 2-2, Summary of Ground Disturbance Areas. Furthermore, as noted in the comment, the road widening was included to reflect already-established General Plan policies and specifically designed to avoid wetland impacts.

Presence of California tiger salamander is assumed and mitigation for impacts is provided, therefore, protocol surveys are not required. The planted Northern California black walnut trees on the Project Site are not considered special-status species because they are planted or naturalized rootstock. Furthermore, the Project Site is outside the geographic range of the remaining viable natural stand of Northern California Black Walnut. As such, no mitigation is warranted for the removal of walnut trees.

Response to GREENBELT-8
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Analysis of the Project's water supply, both in the RDEIR and the WSE follow industry accepted standards which take into consideration potential drought conditions and climate change. Further recirculation of the EIR is not warranted.

Please also see Master Response 1: Water Supply and Distribution.

Response to GREENBELT-9
Please see Master Response 1: Water Supply and Distribution. As noted in this Final EIR, the Project no longer intends to reallocate water from a different district.

Response to GREENBELT-10
The Project can be determined consistent with the County's CAP and includes mitigation to reduce its significant impacts on climate change, as described in Impacts AIR-6 and AIR-7 of the RDEIR and in Response to DAN-18, DAN-21, and DAN-25 of the RDEIR.

The RDEIR specifically addresses the Project's additional daily vehicular trips and the related air quality impacts in Section 3.3, Air Quality and Greenhouse Gas Emissions, Impact AIR-3, subheading Operational Emissions. As stated therein "Assumptions and parameters are provided in Appendix B, and include without limitation an accounting of emissions associated with the Project's daily vehicle trip estimates."

RDEIR Section 3.3, Air Quality and Greenhouse Gas Emissions, also describe SB 32 and SB 375. The Project's consistency with SB 32 and related mandates is discussed throughout Section 3.3. Furthermore, discussion of the Project's consistency with SB 375 is provided under Impact AIR-7, subheading, "Consistency with SB 375 Sustainable Communities Strategy."

Response to GREENBELT-11
The road widening is localized and would facilitate circulation in and out of the Project Site. As stated in the Project Description (RDEIR Section 2, page 2-33) the proposed widening of Camino Tassajara is articulated in the General Plan Circulation Element; the Project improvements are being proposed to comply with this long-term vision. Therefore, the widening would not have a significant growth inducing effect beyond what is already envisioned as part of the General Plan. Please refer to GREENBELT-10 and GREENBELT-5 above. Also see Master Response 2: Agricultural Preservation Agreement for additional information as to how the Project would serve to discourage urban sprawl through the creation of a permanent buffer. Further recirculation of the EIR is not warranted.

Response to GREENBELT-12
Please see Master Response 3: Transportation Analysis. Further recirculation of the EIR is not warranted.

Response to GREENBELT-13
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. For informational purposes, please refer to Responses to GREENBELT-1 through GREENBELT-12 above, which provide individual responses for the raised issues. Further recirculation of the EIR is not warranted.

TASSAJARA PARKS EIR COMMENTS

Mr. John Oborne, Senior Planner
Contra Costa County Department of Conservation and Development
30 Muir Road
Martinez, CA 94553 john.oborne@dcd.cccounty.us

July 10, 2016

Dear Mr. Oborne:

Mustang Soccer Club is a non-profit corporation which owns and operates the Mustang Soccer Complex located on the south side of Tassajara Road opposite the proposed project. The proposed Project Driveway is an extension of our access road at Ballfields.

Mustang does not recommend either approval or disapproval of the project itself. However, we would like to go on record with our comments on the following factors which will impact our organization should the project be approved: 1

The project is within the boundaries of Mustang Soccer Club and would add a number of soccer players to our organization. This would increase the need for additional soccer field space for both practice and games. We would appreciate consideration of a dedicated soccer field or fields within the project area to help alleviate the continuing need for playing space. Soccer fields are an approved activity on land located outside the Urban Limit Line. 2

There is no discussion of the Mustang Soccer traffic impacts at the intersection of Tassajara Road and Ballfields. The most serious impacts are on weekends during the Soccer season with peak use occurring during our Tournament weekends when hundreds of teams arrive from out of the area to participate in our nationally recognized events. At the very least, we would need co-ordination with other traffic signals on these weekends. 3

Finally, our complex operates on weekends and at night with lighted fields and parking lot. We would request that all buyers of these new homes be notified in writing of our existence and sign an acknowledgement and acceptance of our continuing operations. 4

Very truly yours,

John Mascali
President, Mustang Soccer

Tony Stepper
Parliamentarian, Mustang Soccer

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Mustang Soccer Club (MSC) July 10, 2016

Response to MSC-1
The commenter provides introductory statements. No further response is required.

Response to MSC-2
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to MSC-3
The intersection of Camino Tassajara/Ballfields is analyzed as intersection #1 throughout the Transportation and Traffic Section (see RDEIR Section 3.12). As shown, the intersection would not experience a significant impact during peak-hours in any of the analysis scenarios. As noted by the commenter, the Club may coordinate with the County regarding signal timing for weekend events during the soccer season. No further response is required.

Response to MSC-4
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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Scott Hein
President
Amara Morrison
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Burt Bassler
Treasurer
Heath Bartosh
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John Gallagher
Claudia Hein
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Proud Member of
Land Trust Alliance
California Council of Land Trusts
Bay Area Open Space Council

July 18, 2016

John Oborne
Contra Costa County Dept. of Conservation & Development
30 Muir Road
Martinez, CA 94553

RE: Comments on the draft Environmental Impact Report (dEIR) for the Tassajara Parks Project (Project), State Clearinghouse # 2014052089

Dear Mr. Oborne,

Save Mount Diablo (SMD) is a non-profit conservation organization founded in 1971 which acquires land for addition to parks on and around Mount Diablo and monitors land use planning which might affect protected lands. We build trails, restore habitat, and are involved in environmental education. In 1971 there was just one park on Mount Diablo totaling 6,778 acres; today there are almost 50 parks and preserves around Mount Diablo totaling 110,000 acres. We include more than 8,000 donors and supporters.

We appreciate the opportunity to comment on the proposed dEIR for the Tassajara Parks Project (Project). We find that the dEIR provides a comprehensive acknowledgement of sensitive species impacts, bases impacts and mitigation requirements on appropriately conservative assumptions and offers mechanisms for the permanent protection of the vast majority of the project site. 1

We previously commented on the Notice of Preparation (NOP) for this Project and made suggestions on the contents of the dEIR. We evaluate the dEIR in this context below.

Project Footprint

The dEIR clearly states the location and acreage footprint of each component of the proposed Project, including the area proposed for residential development, area affected by the proposed detention basin and grading, the area proposed to be permanently protected as open space, and the area that could potentially be used for activities related to the San Ramon Valley Fire Protection District. 2

We note that the proposed Residential Development Area is located on 30 acres outside of and adjacent to the ULL and current development in the unincorporated community of Blackhawk. The 30-acre adjustment to the ULL is the most important aspect of the Project. The question is whether use of the 30-acre ULL adjustment for this project would encourage other 30-acre ULL adjustments elsewhere.

Protected Open Space to be Given to East Bay Regional Parks District (EBRPD)
The dEIR explains in some detail how the acreage of the Project site to be dedicated to permanent park, recreation and open space uses will be transferred to EBRPD.

We note that the Project proposes to permanently protect 710 acres, or 92.1% of the Project area. 101 acres of the Northern Site would be subject to recorded deed restrictions that would prohibit any future urban uses outside of the Project's 30-acre Residential Development Area, and approximately 609 acres of the Southern Site would be conveyed to EBRPD for park, recreational and open space uses, subject to a conservation easement on the Southern Site. The area to be protected on the Southern Site would lie adjacent to the currently protected Kawar and Hidden Valley Open Space areas.

Air Quality/Greenhouse Gas Emissions Sections
Our NOP comments noted a lack of an Air Quality or Greenhouse Gas Emissions section. A section dedicated to analyzing these impacts has been included in the dEIR. The analysis concluded that all air quality and greenhouse gas emissions impacts except one were less than significant after mitigation.

It was found that implementation of the Project would generate direct and indirect greenhouse gas emissions that would result in a significant impact on the environment, and even after the implementation of mitigation measures, this would be a significant and unavoidable impact.

Prohibition of Utility Extension Outside the Proposed Adjusted ULL
The dEIR notes that all of the Project's urban development, including residential uses and interior roadways with related utilities and landscaping, would occur within the 30-acre Residential Development Area, as required under County ULL provisions.

3

Impacts on Alkali Habitat
The dEIR notes that a small amount of alkali grassland occurs within and adjacent to seasonal wetlands on level ground along the southern boundary of the Northern Site and some level portions of the Southern Site. It also clearly describes that some of these wetlands on the Northern Site will be impacted by the Project.

We recognize that a population of Congdon's tarplant would be affected on the Northern Site and that confirmed locations on the Southern Site would be protected in the new open space area on the Southern Site adjacent to confirmed populations in Hidden Valley Open Space. In addition, several mitigation measures specific to Congdon's tarplant and San Joaquin spearscale are proposed as part of the Project. These include a seed-collection and planting program with post-planting site-specific management and annual monitoring of the transplanted populations for five years.

We note that the Project footprint has been changed several times in order for, among other things, greater avoidance of the alkali habitat on the Northern Site, as well as reducing the amount of grading necessary by limiting the footprint to the lower portions of the Northern Site. Aside from the large amount of permanently protected open space proposed by the Project, 1.18 acres of wetlands are proposed to be created on the Southern Site to mitigate for Project impacts to waters of the US and state on the Northern Site.

Mitigation of Impacts on Agriculture
Several of the Project objectives stated in the dEIR pertain to the protection of agriculture. These include, but are not limited to the following:

- Permanently protect and preserve agricultural, open space, scenic, wetlands and other non-urban characteristics of the vast majority of the Project site.
- Preserve opportunities for ongoing agricultural uses (i.e., grazing) on the Southern Site.

Given that 92.1% of the Project site is proposed for permanent protection that would allow for wetland creation, park, recreation, and agricultural uses, including grazing on the Southern Site, the Project would fulfill these objectives and protect agriculture on the vast majority of the Project site.

Criteria for Project ULL Findings

The dEIR includes discussion of the findings necessary for the Board of Supervisors to approve the 30-acre ULL adjustment that the Project proposes in the Regulatory Framework section of the document. The dEIR also discusses how, in the Applicant's view, the Project would fulfill one of these findings by permanently preserving the vast majority of the Project site for park, recreation, open space, agriculture, grazing, scenic wetland preservation and creation, and habitat mitigation uses, and that the preservation of the land would establish physical and legal constraints to additional urban development outside the ULL in the Tassajara Valley. 3 CONT

We have reviewed the impacts of the proposed Project, as well as the adequacy of the identification and analyses of those impacts and their associated mitigation measures in the dEIR. We find that impacts have been adequately identified and analyzed, and that the proposed mitigation measures are appropriate. 4

Thank you for the opportunity to provide comments.

Sincerely,

Juan Pablo Galván
Land Use Manager

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Save Mt. Diablo (SMD-2) July 18, 2016

Response to SMD-2-1
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to SMD-2-2
See Master Response 2: Agricultural Preservation Agreement.

Response to SMD-2-3
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. For information purposes, however, see Master Response 2: Agricultural Preservation Agreement.

Response to SMD-2-4
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Law, Susan B. <slaw@coxcastle.com>
Sent: Wednesday, July 20, 2016 3:41 PM
To: John Oborne
Cc: Morrison, Clark; Marshall, Stephanie R.
Subject: RE: Tassajara Parks Comment Letter
Attachments: Revised July 18, 2016 Tassajara Parks Comment Letter.pdf

Mr. Oborne,

Attached please see our correction of the "ccs" on the letter we messengered and emailed to you July 18, 2016. If this raises any questions, please contact Mr. Morrison at cmorrison@coxcastle.com, 415.262.5113 (work), or 415.265.1107 (cell). Thank you.

Susan

Susan Berger Law
Assistant to Scott Brooks | Clark Morrison
Scott Birkey | Daniel Engler

COX CASTLE NICHOLSON

direct: 415.263.5534
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From: Law, Susan B.
Sent: Monday, July 18, 2016 2:21 PM
To: 'John.Oborne@dcd.cccounty.us'
Cc: 'ctruebridge@bishopranch.com'; 'JRyan@brookfieldnorcal.com'; 'Steve.Kalmbach@pultegroup.com'; 'bolin@thenewhomecompany.com'
Subject: Tassajara Parks Comment Letter

1

Mr. Oborne:

Per the request of Clark Morrison, please see the attached correspondence; the original letter is being delivered by messenger to your office this afternoon. If you have any questions, please contact Mr. Morrison at cmorrison@coxcastle.com, 415.262.5113 (work), or 415.265.1107 (cell). Thank you.

Susan Berger Law
Assistant to Scott Brooks | Clark Morrison
Scott Birkey | Daniel Engler

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COX CASTLE NICHOLSON

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R. Clark Morrison
415.262.5113
cmorrison@coxcastle.com

File No. 54790

July 20, 2016

VIA E-MAIL John.Oborne@dcd.cccounty.us

Mr. John Oborne
Contra Costa County Department of Conservation & Development
30 Muir Road
Martinez, CA 94553

Re: July 18, 2016 Letter "Comments on the Draft Environmental Impact Report for the Tassajara Parks Project and Related Memorandum of Understanding (MOU)(State Clearinghouse # 2014052089) (County File Numbers GP07-0009, RZ09-3212, SD10-9280, DP10-3008)" 1 CONT

Dear Mr. Oborne:

Please note that the carbon copied ("cc:") individuals listed on the above-referenced letter were incorrectly identified. Please see the attached revised letter with the corrected information. Thank you.

Sincerely,

R. Clark Morrison/sz

R. Clark Morrison

RCM/SRM

Enclosure

054790\7870830v1

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R. Clark Morrison
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File No. 54790

July 18, 2016

VIA MESSENGER AND E-MAIL John.Oborne@dcd.cccounty.us

Mr. John Oborne
Contra Costa County Department of Conservation & Development
30 Muir Road
Martinez, CA 94553

Re: Comments on the Draft Environmental Impact Report for the Tassajara Parks Project and Related Memorandum of Understanding (MOU) (State Clearinghouse # 2014052089) (County File Numbers GP07-0009, RZ09-3212, SD10-9280, DP10-3008)

Dear Mr. Oborne:

Cox, Castle & Nicholson represents Windemere BLC Land Company, LLC ("Windemere"), which owns approximately 284 acres of land located to the south of the Tassajara Parks Project ("Project") along Windemere Parkway in Contra Costa County (the "County") (the "Silva Property"). As an owner of property that will be directly impacted by the Project and its related Memorandum of Understanding ("MOU"), Windemere appreciates the opportunity to provide comments on the Draft Environmental Impact Report for the Tassajara Parks Project (the "EIR"). 2

As detailed below, however, by neglecting to include the related MOU as part of the Project analyzed in the EIR, the EIR's analysis of the Project's environmental impacts is incomplete and understates the extent of the impacts in violation of the California Environmental Quality Act ("CEQA"). Also, the MOU is unlawful because a local agency may not "contract away its right to exercise [its] police power in the future." Further, because the EIR provides that the Project would not have potentially significant impacts with respect to agricultural resources, open space, or recreation/parks, the preservation of 17,718 acres of land not owned by the Project applicant is not necessary to mitigate any impacts of the Project; and even if mitigation was necessary, the burden should not be placed on other land owners to mitigate the impacts of this Project. 3

1. The EIR Fails to Evaluate the "Whole of the Action" by Excluding the MOU from the Project Description 4

CEQA Guidelines Section 15378, subdivision (a) defines the term "Project" as "the whole of an action, which has a potential for resulting in a physical change in the

environment, directly or ultimately," and which is undertaken, supported or approved by a public agency. Subdivision (c) of this section states, "[t]he term 'project' refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term 'project' does not mean each separate governmental approval." "'Project' is given a broad interpretation in order to maximize protection of the environment." (*McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136, 1143.)

Failure to include a component of the project in the EIR's project description can result in a failure to analyze the significant impacts that will be caused by that component alone, and as combined with the remainder of the project. (See *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818; *McQueen, supra*, 202 Cal.App.3d at 1143 ["An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity."].) "A narrow view of a project could result in the fallacy of division [citation], that is, overlooking its cumulative impact by separately focusing on isolated parts of the whole." (*Id.* at 1144; see also *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 592 and *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283–284.)

The Project described and analyzed in the EIR includes 125 single-family homes located on a 30-acre portion of the 771-acre Project site. As stated in the EIR, "[a]pproximately 101 acres of the Northern Site (known as the Northern Preservation Area) would be subject to deed restrictions that would prohibit any future urban uses to be developed outside of the Residential Development Area. On the Southern Site, 609 acres "would be permanently protected and preserved for nonurban uses such as parks, recreation, open space, agriculture, grazing, scenic, wetland preservation and creation, and habitat mitigation." (EIR, p. 1-1.)

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CONT

As acknowledged in a July 12, 2016 memorandum to the Mayor and Town Council of the Town of Danville, "[r]elated to the development proposal is a [MOU], which is being drafted by the County . . . The draft MOU would contractually preserve and protect up to 17,718 acres in the Tassajara Valley [the "Tassajara Valley Agricultural Enhancement Area")." As further acknowledged by the Danville memorandum, "[w]hile County staff has indicated that each matter [the Project and the MOU] may move forward independent of the other, the draft MOU is intended in part, to allow the County to make the finding necessary to grant the 30 acre exception being requested for the development project [pursuant to Measure L]." (Emphasis added.) And yet the MOU is not included as part of the Project analyzed in the EIR and is wholly omitted from consideration in the analysis of the Project's environmental impacts. This failure to include the MOU as part of the Project and to include it in the EIR's evaluation of the Project's impacts violates CEQA and renders the EIR inadequate as an informational document.

2. The MOU Is Unlawful Because Local Agency Parties to the MOU May Not Contract Away Their Police Powers

California law is clear that land use regulations are an exercise of the police power, and that a local agency "cannot contract away its right to exercise the police power in the future." (*Avco Community Developers, Inc v. South Coast Regional Com.* (1976) 17 Cal.3d 785, 800 [confirming that "the state's police power overrides any obligation of the state to perform" under an agreement that purported to guarantee the future zoning of a particular tract of land, stating that the agreement would be "invalid and unenforceable as contrary to public policy."]; see also *Trancas Property Owners Assn. v. City of Malibu* (2006) 138 Cal.App.4th 172, 180–181 [settlement agreement's exemption from zoning density restrictions was "intrinsically invalid because it include[d] commitments to take or refrain from taking regulatory actions regarding [the property's] zoning, which may not lawfully be undertaken by contract."].) Legislative authority may not be surrendered or impaired either by ordinance or contract. (*Alameda County Land Use Assn. v. City of Hayward* (1995) 38 Cal.App.4th 1716, 1724 ("*Alameda County*").) "[T]he controlling consideration in this area appears to be whether a disputed contract amounts to a local entity's 'surrender,' 'abnegation,' 'divestment,' 'abridging,' or 'bargaining away' of its control of a police power or municipal function." (*County Mobilehome Positive Action Com., Inc. v. County of San Diego* (1998) 62 Cal.App.4th 727, 738.)

5

In *Alameda County*, the City of Hayward entered into an MOU with the City of Pleasanton and Alameda County concerning the use of a parcel of land, parts of which lay within all three jurisdictions. (38 Cal.App.4th at pp. 1719–1720.) The parties agreed to use their best efforts to adopt into their respective general plans certain specified goals for the parcel. One provision of the MOU dictated that no further amendments to any of the parties' general plans would be effective unless the other parties adopted parallel amendments. The court held that this was an unlawful surrender of each jurisdiction's power to amend its own general plan by providing other jurisdictions with an effective veto over such amendments. (*Id.* at 1724–1725.) The court in *108 Holdings, Ltd. v. City of Rohnert Park*, distinguished a settlement agreement at issue there from the MOU in *Alameda County*, finding that, unlike the veto power in *Alameda County*, the settlement agreement "places no restrictions on the City's exercise of its police power in the future." (*108 Holdings, Ltd. v. City of Rohnert Park* (2006) 136 Cal.App.4th 186, 196–197 [Also noting that an amendment to a sphere of influence is an amendment to a general plan, but city's agreement to seek amendment to its sphere of influence would be accompanied by appropriate public process].)

The draft MOU between the County, the City of San Ramon, and the Town of Danville (attached to the July 12, 2016 memorandum to the Danville Town Council) contains the following provisions:

1. "The Parties agree not to support any proposal to annex all or any portion of the Tassajara Valley Agricultural Enhancement Area into a municipality or a utility services district unless the annexation serves non-urban uses such as agriculture, open space, wetlands, parks, and other non-urban uses."

2. "The Parties agree not to support any proposal to modify the SOI of any municipality or utility services district to include any portion of the Tassajara Valley Agricultural Enhancement Area, unless the modification serves non-urban uses as agriculture, open space, wetlands, parks, and other non-urban uses."

3. "The County agrees not to support any proposal to amend the General Plan land use designation for all or any portion of the Tassajara Valley Agricultural Enhancement Area, unless such proposed amendment is for one or more of the following County General Plan land use designations: Agricultural Lands, Public and Semi-Public, Open Space, or Parks and Recreation Uses."

4. "The County agrees not to support any proposal to amend the zoning designations in the Tassajara Valley Agricultural Enhancement Area to change the zoning to a non-agricultural designation or other designation that is not compatible with agriculture, open space or park and recreation uses."

5. "The Parties agree not to support any future urban development in the Tassajara Valley Agricultural Enhancement Area, except as otherwise provided in this MOU."

(Draft MOU, ¶¶ 5-7, 9-11.)

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CONT

These provisions of the MOU are unlawful. As in *Alameda County*, each one of these provisions surrenders the power of the parties to the MOU to legislate in the future. The court in *108 Holdings, Ltd. v. City of Rohnert Park, supra*, confirmed that changes to a jurisdiction's boundaries and SOI are amendments to the general plan, which is a legislative power. Thus, by refusing to support changes to their respective SOIs, the parties are abdicating their authority to make these future changes to their general plans. The remainder of the MOU provisions quoted above concern other amendments to the general plans, zoning changes and project approvals, requiring that the jurisdictions surrender their land use authority and legislative powers indefinitely. Each one of these provisions renders the MOU as a whole unlawful.

3. There Is No "Nexus" Between the MOU's Land Preservation and the Project's Impacts and the MOU Unduly Burdens Windemere and the Silva Property

The first constitutional limitation on public agency authority to require mitigation is the requirement that a "reasonable relationship" or "nexus" exist between the project's impacts and an exaction, fee, or condition imposed by the agency. (*Nollan v California Coastal Comm'n* (1987) 483 U.S. 825, 837 ["In short, unless the permit condition serves the same governmental purpose as the [requirement or restriction], the [restriction] is not a valid regulation of land use, but 'an out-and-out plan of extortion.'"].) 6

Here, the MOU proposes to burden third-parties, including Windemere, in order to support the development proposal of the applicant. Windemere and the other landowners within the area impacted by the MOU do not have pending applications that could justify the MOU's restrictions on future land use changes on their property. Therefore, the MOU imposes a burden on the landowners impacted by the MOU that has no nexus to any impacts. The applicant, the County and other agencies cannot impose a de-facto perpetual restriction on development rights on the Windemere property through a contract Windemere is not a party to.

Sincerely,

R. Clark Morrison /sm

R. Clark Morrison

RCM/SRM
054790\7860215v4

cc: J. Christian Truebridge (via email)
John Ryan, Brookfield Homes (via email)
Steve Kalmbach, PulteGroup (via email)
Brian Olin, Lennar (via email)

John Oborne

From: Law, Susan B. <slaw@coxcastle.com>
Sent: Monday, July 18, 2016 2:21 PM
To: John Oborne
Cc: ctruebridge@bishopranch.com; JRyan@brookfieldnorcal.com; Steve.Kalmbach@pultegroup.com; bolin@thenewhomecompany.com
Subject: Tassajara Parks Comment Letter
Attachments: Tassajara Parks Comment Letter to J. Oborne, Contra Costa Dept. Conservation & Development.pdf

Mr. Oborne:

Per the request of Clark Morrison, please see the attached correspondence; the original letter is being delivered by messenger to your office this afternoon. If you have any questions, please contact Mr. Morrison at cmorrison@coxcastle.com, 415.262.5113 (work), or 415.265.1107 (cell). Thank you.

Susan Berger Law
Assistant to Scott Brooks | Clark Morrison
Scott Birkey | Daniel Engler

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R. Clark Morrison
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File No. 54790

July 18, 2016

VIA MESSENGER AND E-MAIL John.Oborne@dcd.cccounty.us

Mr. John Oborne
Contra Costa County Department of Conservation & Development
30 Muir Road
Martinez, CA 94553

Re: Comments on the Draft Environmental Impact Report for the Tassajara Parks Project and Related Memorandum of Understanding (MOU) State Clearinghouse # 2014052089) (County File Numbers GP07-0009, RZ09-3212, SD10-9280, DP10-3008)

Dear Mr. Oborne:

Cox, Castle & Nicholson represents Windemere BLC Land Company, LLC ("Windemere"), which owns approximately 284 acres of land located to the south of the Tassajara Parks Project ("Project") along Windemere Parkway in Contra Costa County (the "County") (the "Silva Property"). As an owner of property that will be directly impacted by the Project and its related Memorandum of Understanding ("MOU"), Windemere appreciates the opportunity to provide comments on the Draft Environmental Impact Report for the Tassajara Parks Project (the "EIR").

As detailed below, however, by neglecting to include the related MOU as part of the Project analyzed in the EIR, the EIR's analysis of the Project's environmental impacts is incomplete and understates the extent of the impacts in violation of the California Environmental Quality Act ("CEQA"). Also, the MOU is unlawful because a local agency may not "contract away its right to exercise [its] police power in the future." Further, because the EIR provides that the Project would not have potentially significant impacts with respect to agricultural resources, open space, or recreation/parks, the preservation of 17,718 acres of land not owned by the Project applicant is not necessary to mitigate any impacts of the Project; and even if mitigation was necessary, the burden should not be placed on other land owners to mitigate the impacts of this Project.

1. The EIR Fails to Evaluate the "Whole of the Action" by Excluding the MOU from the Project Description

CEQA Guidelines Section 15378, subdivision (a) defines the term "Project" as "the whole of an action, which has a potential for resulting in a physical change in the

environment, directly or ultimately," and which is undertaken, supported or approved by a public agency. Subdivision (c) of this section states, "[t]he term 'project' refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term 'project' does not mean each separate governmental approval." "'Project' is given a broad interpretation in order to maximize protection of the environment." (*McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136, 1143.)

Failure to include a component of the project in the EIR's project description can result in a failure to analyze the significant impacts that will be caused by that component alone, and as combined with the remainder of the project. (See *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818; *McQueen, supra*, 202 Cal.App.3d at 1143 ["An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity."].) "A narrow view of a project could result in the fallacy of division [citation], that is, overlooking its cumulative impact by separately focusing on isolated parts of the whole." (*Id.* at 1144; see also *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 592 and *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283–284.)

The Project described and analyzed in the EIR includes 125 single-family homes located on a 30-acre portion of the 771-acre Project site. As stated in the EIR, "[a]pproximately 101 acres of the Northern Site (known as the Northern Preservation Area) would be subject to deed restrictions that would prohibit any future urban uses to be developed outside of the Residential Development Area. On the Southern Site, 609 acres "would be permanently protected and preserved for nonurban uses such as parks, recreation, open space, agriculture, grazing, scenic, wetland preservation and creation, and habitat mitigation." (EIR, p. 1-1.)

As acknowledged in a July 12, 2016 memorandum to the Mayor and Town Council of the Town of Danville, "[r]elated to the development proposal is a [MOU], which is being drafted by the County . . . The draft MOU would contractually preserve and protect up to 17,718 acres in the Tassajara Valley [the "Tassajara Valley Agricultural Enhancement Area")." As further acknowledged by the Danville memorandum, "[w]hile County staff has indicated that each matter [the Project and the MOU] may move forward independent of the other, the draft MOU is intended in part, to allow the County to make the finding necessary to grant the 30 acre exception being requested for the development project [pursuant to Measure L]." (Emphasis added.) And yet the MOU is not included as part of the Project analyzed in the EIR and is wholly omitted from consideration in the analysis of the Project's environmental impacts. This failure to include the MOU as part of the Project and to include it in the EIR's evaluation of the Project's impacts violates CEQA and renders the EIR inadequate as an informational document.

2. The MOU Is Unlawful Because Local Agency Parties to the MOU May Not Contract Away Their Police Powers

California law is clear that land use regulations are an exercise of the police power, and that a local agency "cannot contract away its right to exercise the police power in the future." (*Avco Community Developers, Inc v. South Coast Regional Com.* (1976) 17 Cal.3d 785, 800 [confirming that "the state's police power overrides any obligation of the state to perform" under an agreement that purported to guarantee the future zoning of a particular tract of land, stating that the agreement would be "invalid and unenforceable as contrary to public policy."]; see also *Trancas Property Owners Assn. v. City of Malibu* (2006) 138 Cal.App.4th 172, 180–181 [settlement agreement's exemption from zoning density restrictions was "intrinsically invalid because it include[d] commitments to take or refrain from taking regulatory actions regarding [the property's] zoning, which may not lawfully be undertaken by contract."].) Legislative authority may not be surrendered or impaired either by ordinance or contract. (*Alameda County Land Use Assn. v. City of Hayward* (1995) 38 Cal.App.4th 1716, 1724 ("*Alameda County*").) "[T]he controlling consideration in this area appears to be whether a disputed contract amounts to a local entity's 'surrender,' 'abnegation,' 'divestment,' 'abridging,' or 'bargaining away' of its control of a police power or municipal function." (*County Mobilehome Positive Action Com., Inc. v. County of San Diego* (1998) 62 Cal.App.4th 727, 738.)

In *Alameda County*, the City of Hayward entered into an MOU with the City of Pleasanton and Alameda County concerning the use of a parcel of land, parts of which lay within all three jurisdictions. (38 Cal.App.4th at pp. 1719–1720.) The parties agreed to use their best efforts to adopt into their respective general plans certain specified goals for the parcel. One provision of the MOU dictated that no further amendments to any of the parties' general plans would be effective unless the other parties adopted parallel amendments. The court held that this was an unlawful surrender of each jurisdiction's power to amend its own general plan by providing other jurisdictions with an effective veto over such amendments. (*Id.* at 1724–1725.) The court in *108 Holdings, Ltd. v. City of Rohnert Park*, distinguished a settlement agreement at issue there from the MOU in *Alameda County*, finding that, unlike the veto power in *Alameda County*, the settlement agreement "places no restrictions on the City's exercise of its police power in the future." (*108 Holdings, Ltd. v. City of Rohnert Park* (2006) 136 Cal.App.4th 186, 196–197 [Also noting that an amendment to a sphere of influence is an amendment to a general plan, but city's agreement to seek amendment to its sphere of influence would be accompanied by appropriate public process].)

The draft MOU between the County, the City of San Ramon, and the Town of Danville (attached to the July 12, 2016 memorandum to the Danville Town Council) contains the following provisions:

1. "The Parties agree not to support any proposal to annex all or any portion of the Tassajara Valley Agricultural Enhancement Area into a municipality or a utility services district unless the annexation serves non-urban uses such as agriculture, open space, wetlands, parks, and other non-urban uses."

2. "The Parties agree not to support any proposal to modify the SOI of any municipality or utility services district to include any portion of the Tassajara Valley Agricultural Enhancement Area, unless the modification serves non-urban uses as agriculture, open space, wetlands, parks, and other non-urban uses."

3. "The County agrees not to support any proposal to amend the General Plan land use designation for all or any portion of the Tassajara Valley Agricultural Enhancement Area, unless such proposed amendment is for one or more of the following County General Plan land use designations: Agricultural Lands, Public and Semi-Public, Open Space, or Parks and Recreation Uses."

4. "The County agrees not to support any proposal to amend the zoning designations in the Tassajara Valley Agricultural Enhancement Area to change the zoning to a non-agricultural designation or other designation that is not compatible with agriculture, open space or park and recreation uses."

5. "The Parties agree not to support any future urban development in the Tassajara Valley Agricultural Enhancement Area, except as otherwise provided in this MOU."

(Draft MOU, ¶¶ 5-7, 9-11.)

These provisions of the MOU are unlawful. As in *Alameda County*, each one of these provisions surrenders the power of the parties to the MOU to legislate in the future. The court in *108 Holdings, Ltd. v. City of Rohnert Park, supra*, confirmed that changes to a jurisdiction's boundaries and SOI are amendments to the general plan, which is a legislative power. Thus, by refusing to support changes to their respective SOIs, the parties are abdicating their authority to make these future changes to their general plans. The remainder of the MOU provisions quoted above concern other amendments to the general plans, zoning changes and project approvals, requiring that the jurisdictions surrender their land use authority and legislative powers indefinitely. Each one of these provisions renders the MOU as a whole unlawful.

3. There Is No "Nexus" Between the MOU's Land Preservation and the Project's Impacts and the MOU Unduly Burdens Windemere and the Silva Property

The first constitutional limitation on public agency authority to require mitigation is the requirement that a "reasonable relationship" or "nexus" exist between the project's impacts and an exaction, fee, or condition imposed by the agency. (*Nollan v California Coastal Comm'n* (1987) 483 U.S. 825, 837 ["In short, unless the permit condition serves the same governmental purpose as the [requirement or restriction], the [restriction] is not a valid regulation of land use, but 'an out-and-out plan of extortion.'"].)

Here, the MOU proposes to burden third-parties, including Windemere, in order to support the development proposal of the applicant. Windemere and the other landowners within the area impacted by the MOU do not have pending applications that could justify the MOU's restrictions on future land use changes on their property. Therefore, the MOU imposes a burden on the landowners impacted by the MOU that has no nexus to any impacts. The applicant, the County and other agencies cannot impose a de-facto perpetual restriction on development rights on the Windemere property through a contract Windemere is not a party to.

Sincerely,

R. Clark Morrison

RCM/SRM

cc: J. Christian Truebridge, Sunset Development Company (via email)
John Ryan, Brookfield Homes (via email)
Steve Kalmbach, PulteGroup (via email)
Brian Olin, The New Home Company (via email)

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Windemere BLC Land Company (WINDEMERE)

Response to WINDEMERE-1
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to WINDEMERE-2
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to WINDEMERE-3
The RDEIR includes a discussion of the Agricultural Preservation Agreement (formerly referred to as the MOU), as requested. As explained in Master Response 2: Agricultural Preservation Agreement, the Agricultural Preservation Agreement seeks to reinforce a range of existing provisions in each party's general plan/governing policy document intended to protect agricultural lands and open space. Please see Master Response 2: Agricultural Preservation Agreement.

Response to WINDEMERE-4
Please see Master Response 2: Agricultural Preservation Agreement. No further response is required.

Response to WINDEMERE-5
Please see response Master Response 2: Agricultural Preservation Agreement. Each agency signing the Agricultural Preservation Agreement is exercising its authority under the police power and/or other regulatory authority to affirm its existing policies and goals with respect to agricultural preservation and open space. The Agricultural Preservation Agreement would not modify any existing rights of private properties owners within its boundaries.

Response to WINDEMERE-6
Please see response Master Response 2: Agricultural Preservation Agreement. No further response is required.

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John Oborne

From: Charles Bettencourt <cabetten@yahoo.com>
Sent: Tuesday, July 19, 2016 6:44 PM
To: John Oborne
Subject: Tassajara parks MOU

I oppose the Tassajara Parks MOU. Please review and reconsider your position. Thanks 1

Sent from my Verizon Wireless 4G LTE Droid

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Individuals

Charles Bettencourt (BETTENCOURT) July 19, 2016

Response to BETTENCOURT-1

The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: John C. Christensen <jchristensen@jcc-technologies.com>
Sent: Monday, July 18, 2016 3:23 PM
To: John Oborne
Subject: Tassajara Parks MOU

Dear Mr. Osborne,

I own property within the area affected by the Tassajara Parks Memorandum of Understanding and I am opposed to it. Unless I'm missing something, this MOU just adds to an already long list of restrictions governing what I can do with the land I own. I'm still unclear on why it was deemed appropriate to impose further restrictions on some 17,000 acres in order to proceed with the Tassajara Park(s) project. I and a number of the landowners in the affected area are evaluating the need for legal representation in this matter. 1

Sincerely,

John C. Christensen
P.O. Box 807
Livermore, CA 94551
(925) 699-3272

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John C. Christensen (CHRISTENSEN) July 18, 2016

Response to CHRISTENSEN-1

Please refer to Master Response 2: Agricultural Preservation Agreement.

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John Oborne

From: Julie Dormandy <horselaugh@comcast.net>
Sent: Saturday, June 04, 2016 5:48 PM
To: John Oborne
Subject: Re: Draft EIR Tassajara Parks Project

Dear John,

Thank you very much for your reply. Please excuse my ignorance regarding how to comment on the proposed project, but I will offer our comments/concerns as best I can:

We were told the last time the ULL was adjusted that it would be "the last time" and changes would be permanent to preserve the rural nature of the area. Having lived in the immediate vicinity of the proposed Northern Site for almost 20 years, we would be sorely disappointed to have yet more houses and traffic and congestion and noise and school kids/pick-up & drop-off issues than those with which we already contend! The quality of our life in this area --- once quiet and generally non-suburban in nature --- has diminished dramatically in the past few years. Despite the applicant's promise to deed the Southern Site to EBRPD primarily, we cannot see that it is at all an offset to the continued quest of the area to become Northern California's equivalent of San Fernando Valley. Ugh and yuck. 1

The other equally large concern is water usage. We've been hard hit with drought restrictions on our property, to the detriment of our investment not to mention enjoyment of the garden & wildlife. Yet more houses and water use in the area is being proposed which we find profoundly objectionable. We do understand they are 'swapping' water around, as though that makes it acceptable, but of course the swaps rarely work out in real life as they do on paper, and we will once again be subject to allocation of water based on extremely limited supply. 2

The same analogy applies to traffic through the area, as though Camino Tassajara were the rural substitute for Hwy 101. We feel very mislead by the County and cannot trust the future of the area to the whims of regional government and their desire for greater financial gain through the continued 'adjustment' of the ULL or the 'permanent' use of land for parks only. We'd be silly to believe once again that there is enough water, enough traffic signals, enough (and smart enough) design engineers to mitigate and manage the impacts to the area, to the wildlife, to the congestion with the addition of more housing. All one need do is drive Camino Tassajara to see the dead animals that regularly line the roadside. 3

Thank you for allowing us to express our concerns. I hope I can share that we are nice people and not unwilling to see the value of compromise, but we did that already. The last time we were told the developments would be limited, not encroach on the view corridor of the hills, not take more water, etc., etc. A total fallacy. So I hope you will forgive our adamant stance in opposition to the development proposal despite what would appear, on paper, to be a gain in acreage for parkland. 4

Cordially,
Julie and Ray Dormandy
391 Kingswood Ln
Danville, CA 94506

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Julie Dormandy (DORMANDY) June 4, 2016

Response to DORMANDY-1
The RDEIR included analysis of the Project's effect on traffic and noise. Please see Section 3.10, Noise, and 3.12, Transportation and Traffic. Please also see the RDEIR Section 2, Project Description, subsection 2.2.5, Changes to the Urban Limit Line, for a discussion of the ULL.

Response to DORMANDY-2
The Project no longer proposes using CPUD water. Please see Master Response 1: Water Supply and Distribution.

Response to DORMANDY-3
Because the commenter did not provide specific comment on the analysis of these potential impacts as disclosed in the RDEIR, no further response can be provided.

Response to DORMANDY-4
The issue raised by the commenter addresses the merits of the Project and does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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Ruben Hernandez

From: Richard Fischer <richardfischer1@comcast.net>
Sent: Wednesday, July 13, 2016 1:40 PM
To: Ruben Hernandez
Subject: FW: Tassajara Parks proposed development
Attachments: Tassajara Parks DEIR comments.docx

Dear Mr. Hernandez,

Please ignore the incorrect attachment I sent to you yesterday. Attached is the correct attachment.

Sincerely,

Richard L. Fischer

From: Richard Fischer [mailto:richardfischer1@comcast.net]
Sent: Tuesday, July 12, 2016 3:48 PM
To: 'Ruben.Hernandez@dcd.cccounty.us'
Subject: FW: Tassajara Parks proposed development

Dear Mr. Hernandez,

As Mr. Oborne has directed, I am forwarding this e-mail to your attention.

Sincerely,

Richard Fischer
925-200-4574

From: Richard Fischer [mailto:richardfischer1@comcast.net]
Sent: Tuesday, July 12, 2016 3:46 PM
To: 'dist3@bos.cccounty.us'; 'supervisorandersen@bos.cccounty.us'; 'district5@bos.cccounty.us'; 'supervisormitchoff@bos.cccounty.us'; 'john.oborne@dcd.cccounty.us'
Cc: fabsnca@cs.com; fstrange3@yahoo.com; logue.family1111@gmail.com; bvarabians@aol.com; arnoldjacobs@comcast.net; edz@sbcglobal.net; 'rosenberg.neil@gmail.com'; dnlacey@att.net
Subject: Tassajara Parks proposed development

Dear Supervisors and Mr. John Oborne,

Please find attached my response to the draft environmental report known as Tassajara Parks. A hard copy will be sent via U.S. mail. In the mailing you will see a petition signed by many residents in the Finley Road neighborhood that adjoins the proposed Tassajara Parks development. Respectfully, we request you reject the proposed development.

Although my letter reflects mine and many of my neighbors concerns, you will be receiving letters addressing other defects in the DEIR that are of particular concern of my neighbors. Also, please include me and the signed petitioners on any notifications in the future concerning this development. We appreciate your careful consideration in this matter. 1

Sincerely,

Richard Fischer

5250 Old School Road
Pleasanton (unincorporated CC County), California 94588
July 12, 2016.

Mr. John Oborne
Project Planner
Department of Conservation and Development
Contra Costa County
30 Muir Road
Martinez, California 94553

Re: Tassajara Parks: County File #'s GP07-0009, etc.

Dear Mr. Oborne:

I am responding to the Draft Environmental Impact Report ("DEIR") for the above referenced project Dated May 11, 2016. After reviewing the DEIR, I have found the following concerns, report insufficiencies and unfounded conclusions.

1. The proposed development is outside the county's Urban Limit Line ("ULL") which was overwhelmingly approved by the voters of Contra Costa County. Because the project is less than 30 acres in size, it would require a supermajority vote of the County's supervisors. While this approval is outside of your purview, the EIR notes in Sections 5.11 that there are two alternative building sites, a portion of which would be within the ULL—Norris Canyon and Chapparal Court sites near San Ramon. It is my conviction that urban infill should be given the first priority for new development before any approval is given to a development that violates the existing ULL.

   In discussing these above two alternative sites, the project applicant would propose dedicating a portion of the alternative sites back to the East Bay Regional Parks District ("EBRPD"). The project applicant further states in the same paragraphs that it would be "*uncertain if the EBRPD would accept these land grants.*" This seems to be inconsistent with the applicant's statements in the DEIR that the EBRPD would willingly accept the dedication of significant portions of Tassajara Parks' land to EBRPD. Why does the applicant assume that his land would be accepted but not the land contained in the Norris Canyon and Chapparal Court's sites?

1 CONT

2. As stated above, the applicant in the DEIR assumes that EBRPD will accept the "Southern Site" of 616 acres and portions of the Northern Site to be incorporated into the park district. The DEIR assumes that EBRPD will maintain and suitably staff the dedicated land. The applicant's statement would be more believable in the DEIR incorporated a "letter of intent" from EBRPD stating that they will accept the parcels and will staff and maintain the dedicated land. Without

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such letter of intent, and in light of EBRPD's limited resources, it is unlikely that these lands would be developed and maintained as a park. Furthermore, there is no guarantee that EBRPD will hold these lands in perpetuity. Looking into the future and given EBRPD's limited resources, it is not a stretch to project that EBRPD would find it advantageous to sell this "surplus land" to a new developer and given the precedence of the Tassajara Parks ULL adjustment, request another ULL adjustment. This process could repeat and repeat until the southern Tassajara Valley was no longer rural, that in fact it would become "Dublin North", and that the ULL would become just a distant memory of times past. In summary without a contractual development plan from EBRPD for the proposed donated lands, the applicant's statements relating to donated land are either misleading or at best wishful thinking resulting in the DEIR being incomplete. 2 CONT

3. Traffic. The proposed mitigation measures for the increased traffic on Camino Tassajara and Tassajara Road is insufficient. In Section 3.12 mitigation efforts are discussed principally:

    a. The applicant proposes no mitigation for traffic originating in Tassajara Parks and continuing south on Tassajara road towards Dublin. Traffic originating from Finley Road and other roads south of Tassajara Parks accessing Tassajara Road will be adversely affected with no mitigating measures proposed. At a minimum, a traffic signal should be installed at the intersection of Camino Tassajara and Finley Road. 3

    b. Traffic light software optimization. No amount of "optimization" can reasonably mitigate traffic originating from the 125 homes to be built in Tassajara Parks. Traffic is already congested in the morning from commuters and parents delivering their children to Tassajara Hills, Creekside, and Diablo Valley schools. This congestion at school repeats itself in the afternoon as children are picked up at the schools. 4

4. Future Equestrian Staging Area—this is an incredibly bad idea, not well thought out and should be purged from the development plan.

    a. This would increase traffic on Finley Road (a narrow country road with multiple curves limiting sight lines) by up to 60 cars per day. The entrance to the staging area is directly opposite the Old School House, a national monument, used by school children to teach school life in the 19th and early 20th centuries. The use of the staging area would create an unacceptable vehicular hazard for the children and their parents. 5

    b. The applicant proposes to increase sight lines to 187 feet by relocating the staging area driveway and by "clearing brush". This mitigation is inadequate as traffic exiting the staging area with horse trailers in tow would be vulnerable to traffic proceeding southbound on Finley Road. No amount of driveway relocation or brush clearing can overcome the sharp curve in Finley Road that reduces visibility. A walking tour would verify this unsafe road hazard. 6

c. The equestrian staging area proposes no restrooms, no water, or other amenities. When I last checked, horses run on water. No responsible horse owner will want to trailer his horse to the staging area, ride up Finley Road to enter Mt. Diablo State Park without an adequate supply of water for his horse. In addition, no protected trail exists for horse owners to ride up to the state park. They would have to utilize narrow Finely Road to make this traverse and be subject to being injured by vehicle traffic. 7

d. The applicant proposes to wash his hands of this staging area by handing it over to EBRPD. The latter would be responsible for the so called improvements—widening the driveway and depositing gravel in the parking area. EBRPD has not agreed to this, and given its limited resources, would not be able to maintain this site. 8

e. The site would become an attractive nuisance for late night parking, possible drug dealing, and give rise to property theft and vandalism. 9

f. Finally, the site is located a few yards uphill from Tassajara Creek. No remediation or site maintenance is proposed that would ensure that no horse excrement is washed into Tassajara Creed during the rainy season. From and environmental point, this is the worst possible site for an equestrian staging area. In conclusion, this staging center may look attractive on paper, but it is an extremely poor proposal and should be purged from the DEIR. 10

5. Water Resources:

a. Many of the residents living east and south of Tassajara Parks have limited or infrequent water supplies from our existing wells. We have steadily seen our wells either run dry or have delivered a diminished supply as housing developments have encroached on nearby natural watersheds. Tassajara Parks proposes to make a further 30 acre parcel impermeable to water runoff that normally would flow into Tassajara Creek which recharges our local ground water supplies. Even though the applicant states that the runoff from the 30 acres would be diverted to a catch basin for ground water recharge, the runoff would be polluted by oils and other pollutants washed from the surface of the development's roads and other impermeable surfaces. (Impact HYD-3, page 3.8-10) Our properties rely on a clean water source for recharge of groundwater and eventual household consumption. 11

b. The DEIR states on page ES-32 on Impact HYD-2 that the *"Project would not deplete groundwater supplies or interfere substantially with groundwater recharge"* and that *""no mitigation is necessary."* Also on page 3.8-9, Impact HYD-2 states that groundwater was found at depths of 5 to 10 feet below ground surface at the southern end of the Northern Site. Many homeowners along Finley Road, Country Lane, Old 12

School Road and Joseph Lane have drilled wells to over 100 feet in depth or have existing wells to that depth and have no or limited water. The DEIR fails to recognize that land immediately adjacent to the proposed development is seriously deficient in water supplies and additional development could potentially cause further shortages and add to the accumulated damage done by unrestrained prior development. In addition, in the same section, the applicant is ambiguous on *"future use or abandonment of the wells on the Project Site would be____ of the Ordinance Code"*. In order to preclude the existing wells on the Project Site to be used for landscape irrigation or other purposes, adversely impacting nearby home sites which rely on existing wells for domestic household consumption, the DEIR should include an unambiguous statement that the Project Site wells would be permanently capped. 12 CONT

c. Finally, the DEIR is incomplete in that there is no letter of intent or contractual arrangement attached as an appendix demonstrating that the applicant has secured an adequate water supply. It is difficult to believe that the applicant has progressed to this point without a contractual relationship with East Bay Municipal Utility District ("EBMUD"). If there is a contractual relationship, it is not disclosed. Previously, during the height of the drought last year, local residents who rely exclusively on their wells for domestic water consumption, were denied access to EBMUD water previously supplied at fire hydrants. EBMUD stated that their charter requirements forbid service to anyone not within the ULL or their Ultimate Service Area ("USA"). **If EBMUD is to be the conduit for water to the 125 homes in Tassajara Parks, through expansion of the ULL and their USA, provision must be made for southern Tassajara Valley residents to access through fire hydrants and pay (at domestic consumption rates) for EBMUD water.** 13

d. Attached is a petition signed by numerous residents of the Finley Road neighborhood opposing the relocation of the ULL (sent via U.S. mail). 14

Sincerely,



Richard L. Fischer
Richardfischer1@comcast.net
925-200-4574

Cc: Contra Costa County Board of Supervisors
East Bay Regional Parks District
Museum of the San Ramon Valley
East Bay Municipal Utility District

Contra Costa Planning Commission

Contra Costa Board of Supervisors

Petition

We, the undersigned residents of unincorporated Tassajara Valley, oppose the development plan kown as Tassajara Parks as it is located outside the voter approved Urban Limit Line. We respectively request that this development plan not be approved as it violates the expressed desires of the voters who overwhelmingly approved the establishment of the Urban Limit Line.

	Name	Signature	Address	E- Mail
1	Ginger Taylor	Ginger Taylor	1250 country Ln. Pleasanton 94588	gingbug@gmail.com
2	NADER EGHTESAD	Nader Eghtesad	1120 FINLEY Road, Pleasanton Ca	CHRYSLERNADER@YAHOO.Co
3	WALTER BELL	Dr. Walter L. Bell	1430 FINLEY ROAD, PLEASANTON 94588	wltrbell5@gmail.com
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Contra Costa Planning Commission

Contra Costa Board of Supervisors

Petition

We, the undersigned residents of unincorporated Tassajara Valley, oppose the development plan kown as Tassajara Parks as it is located outside the voter approved Urban Limit Line. We respectively request that this development plan not be approved as it violates the expressed desires of the voters who overwhelmingly approved the establishment of the Urban Limit Line.

	Name	Signature	Address	E- Mail
1	Arnold Jacobs		5660 Old School Rd.	arnoldjacobs@sbcglobal.net
2	Fred Strange		5655 Old School Rd	f.strange3@yahoo.com
3	A. Tenjilo		5750 Old School	A.tenjilo@yahoo.com
4	Rose Thiele		5955 Old School Rd	cw-t@comcast.net
5	Marilyn Hall		5901 Old School Rd	News
6	Douglas Lacey		5825 Old School Rd	dnlacey@att.net
7	Elisa Rosenberg		5353 Old School Rd	
8	Neil Rosen		5350 Old School Rd	Rosenberg.neil@gmail.com
9	Louise Crowe		232 Joseph Ln.	louisecrowe@comcast.net
10	Dylan Crowe		232 Joseph Ln	dylanwcrowe@gmail.com
11	David Ramp		5374 Old School Rd	daverampe@yahoo.com
12	Wayne Ramp		5374 Old School Rd.	waynramp@yahoo.com
13	PEARL BAYOT		5480 OLD SCHOOL RD	pserame@hotmail.com
14				
15				
16				

Contra Costa Planning Commission

Contra Costa Board of Supervisors

Petition

We, the undersigned residents of unincorporated Tassajara Valley, oppose the development plan kown as Tassajara Parks as it is located outside the voter approved Urban Limit Line. We respectively request that this development plan not be approved as it violates the expressed desires of the voters who overwhelmingly approved the establishment of the Urban Limit Line.

	Name	Signature	Address	E-Mail
1	Patrica Carter	Patricia Carter	1050 Country Lane Pleas	Patriciacarter423@Gmail.com
2	Scott Carter	Scott Carter	1050 Country LN Pleas.	Scottcarter@sbcglobal.net
3	Whitney Carter	Whitney Carter	1050 Country Ln Pleasanton	whitney.carter22@gmail.com
4	Phyllis Bleecker	Phyllis Bleecker	1251 Country Ln Pleasanton	phyllisbleecker@comcast.net
5	Michael Bleecker	Michael Bleecker	1251 Country Ln Pleasanton	michaelbleecker@comcast.net
6	Ella Brovitz	Ella Brovitz	5730 OLD SCHOOL RD	ellabro1@aol.com
7	CORTLAND L. BROVITZ	Cortland L. Brovitz	" "	CORTYBRO@YAHOO.COM
8	[illegible]	[illegible]	[illegible]	[illegible]
9	GREG Bowman	Greg Bowman	1051 COUNTRY LN	GB285@Comcast.net
10	Brian Oas	Brian Oas	5800 Camino Tassajara	brianoas6@comcast.net
11	Kelli Stephanos	Kelli Stephanos	5750 Old School Rd	stephanos@sbcglobal.net
12	[redacted]	[redacted]	[redacted]	[redacted]
13	Rob Bourassa	Rob Bourassa	254 Joseph Drive	Rob_Bourassa@yahoo.com
14	Matthew Walley	Matthew Walley	255 Joseph Lane	MBwalley@yahoo.com
15	Sandra Acham	Sandra Acham	255 Joseph Lane	Sandraacham@me.com
16	ROLANDO BAYOT	Rolando Bayot	5480 OLD SCHOOL RD	rolando_bayot@yahoo.com

Contra Costa Planning Commission

Contra Costa Board of Supervisors

Petition

We, the undersigned residents of unincorporated Tassajara Valley, oppose the development plan kown as Tassajara Parks as it is located outside the voter approved Urban Limit Line. We respectively request that this development plan not be approved as it violates the expressed desires of the voters who overwhelmingly approved the establishment of the Urban Limit Line.

	Name	Signature	Address	E-Mail
1	RICHARD FISCHER		5250 Old School Rd	RichardFischer@comcast.net
2	Jean Fischer		5250 Old School Rd	jeannmkenyon@yahoo.com
3	ERIKA SHAFFER		2700 Finley Rd	shaffererika@yahoo.com
4	FRED MATTER		2700 Finley Rd	FRED MATTER@SBCGLOBAL.com
5	Christine Hubbs		3101 Finley Rd	drhubbs@att.net
6	Alexa Hubbs		3101 Finley Rd	alexahubbs@yahoo.com
7	Tim Hubbs DDS		3101 Finley Rd.	drhubbs@att.net
8	JAMES BUCHANAN		1700 Finley Rd.	
9	MIKE LEONARD		125 Finley Rd.	mbtRX@yahoo.com
10	MICHAEL JOHNSON		1100 Finley Rd	MIKEAJ@RACBELL.NET
11	PATRICIA F. JOHNSON		1100 Finley Rd	
12	Gretchen CW Logue		1111 Country Lane	logue.family.1111@gmail.com
13	Paul V. Logue		111 Country Lane	logue.family.111@gmail.com
14				
15				
16				

Contra Costa Planning Commission
Contra Costa Board of Supervisors
Petition

We, the undersigned residents of unincorporated Tassajara Valley, oppose the development plan kown as Tassajara Parks as it is located outside the voter approved Urban Limit Line. We respectively request that this development plan not be approved as it violates the expressed desires of the voters who overwhelmingly approved the establishment of the Urban Limit Line.

	Name	Signature	Address	E- Mail
1	ED ZAPPETTINI		5505 Old School Rd	EDZ@BCGLOBAL.NET
2	JHANSI BOBBA		5575 OLD SCHOOL RD	jgopidase@yahoo.com
3	Cheryl Zappettini	Cheryl Zappettini	5505 Old School Rd	cherzappettini@yahoo.com
4	John Melone		5433 old School Rd	jhfmelone@yahoo.com
5	Shane Hale		5901 OLD SCHOOL RD	JDFIRE006@YAHOO.COM
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Contra Costa Planning Commission

Contra Costa Board of Supervisors

Petition

We, the undersigned residents of unincorporated Tassajara Valley, oppose the development plan kown as Tassajara Parks as it is located outside the voter approved Urban Limit Line. We respectively request that this development plan not be approved as it violates the expressed desires of the voters who overwhelmingly approved the establishment of the Urban Limit Line.

	Name	Signature	Address	E-Mail
1	VIVI HAUGLAND		1530 FINLEY ROAD	VIVIJETTE@VIVIJETTE.COM
2	ARNE HAUGLAND		1530 FINLEY ROAD	ARNE@PARASOLDEVELOPMENT.COM
3	Vicki Dobbeck		1500 Finley Rd	drddobbeck@aol.com
4	DENNIS DOBBECK		1500 FINLEY RD	" " " "
5	DAVID BAYAT		1431 Finley Rd	David@Green-landscaping.com
6	Liz Bayat		1431 Finley Rd	Lbayat@aol.com
7	Nicki Schwarzel		1350 Country Lane	NKS234@comcast.net
8	Katherine Schwarzel		" " "	KMS234@comcast.net
9	LLOYD SZABO		1300 COUNTRY LN	LDSZABO57@yahoo.com
10	Patricia SZABO		1300 Country LN	paddys2580@gmail.com
11	Jim Taylor		1250 Country LN	JGTAYLOR@COMCAST.NET
12	Julie Buckley		1150 Country Ln	juliesbuckley@gmail.
13	John Buckley		1150 Country Ln	JSBuck1957@ATT.net
14	Tim Ruff		1091 Country Lane	
15	Dana B. August	DANA AUGUST	1091 Country Lane	
16	Ron August	Ron August Jr.	1251 Country Lane	
	Danielle Masters	Danielle Masters	1091B Country Lane	mastersfordshomes@hotmail.com

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Richard Fisher (FISHER-2) July 12, 2016

Response to FISHER-2-1
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Concerning the comments about the evaluation of alternate sites, the salient conclusion is that the potential development of either the Norris Canyon or the Chapparal Court sites would not avoid or substantially lessen the impacts associated with the Project.

Regarding the dedication of lands to EBRPD and the uncertainty regarding acceptance of those lands, the RDEIR simply points out that the potential land for dedication would be substantially less than the acreage offered by the Project. In addition, please note that the Project's Development Agreement expressly ties acceptance of the offer of dedication of the Dedication Area to recordation of the final map and implementation of the Project. Without this acceptance, then the ULL modification and related legislative approvals could be rescinded in which case the Project would not be able to proceed.

Response to FISHER-2-2
The EBRPD provided comments on the DEIR in which they acknowledge the acreage to be dedicated and mention that the developer needs to work with EBRPD in determining the location and management prescriptions for the Conservation Easement, as well as on the development of the Long Term Management Plan. Comment noted; the foregoing would be addressed in the Dedication Agreement entered into between the applicant and the EBRPD in accordance with resource agency requirements related to the mandated mitigation.

Response to FISHER-2-3
The Project's potential impacts to the intersection of Camino Tassajara and Finley Road are discussed in the RDEIR Section 3.12, Transportation and Traffic, at page 3.12-66. As discussed, with the implementation of Mitigation Measure TRANS-3e, the intersection would not operate unacceptably, and furthermore it does not meet the warrant for a traffic signal. Subsequent to the publication of the RDEIR, it was determined that an equestrian staging area would no longer be included as part of the Project and is thus no longer incorporated into any Project approvals. Accordingly, the identified potential impact at the intersection of Finley Road / Camino Tassajara related to visitor use of the equestrian staging area would not occur. As such, the implementation of Mitigation Measure TRANS-3e, which requires the construction of a southbound right-turn pocket is no longer required and therefore has been removed. Please see Master Response 3: Transportation Analysis. No further response is required.

Response to FISHER-2-4
The traffic impact analysis evaluated the Project's potential traffic-related impacts in the identified study area, including Camino Tassajara. In so doing, it used the applicable significance thresholds (which is LOS D for Contra Costa, Danville, and San Ramon); see RDEIR Section 3.12, Transportation and Traffic, pp. 3.12-33, and 3.12-34 through 3.12-81. Where significant Project impacts were identified, feasible mitigation was provided, consistent with relevant agency policies and industry standards and protocols. No further response is required.

Response to FISHER-2-5
Please see Master Response 3: Transportation Analysis (Subsection 6).

Response to FISHER-2-6
A sight distance analysis was conducted at the proposed driveway to the previously proposed equestrian staging area (see RDEIR Section 3.12, Transportation and Traffic, Impact TRANS-6, page 3.12-82). The northerly intersection sight distance is currently limited by the horizontal curvature of Finley Drive north of the driveway and the existence of brush within the curb radius. As shown in RDEIR Section 2, Project Description, Exhibit 2-9, the Project has previously proposed to realign the driveway onto Finley Road, which is anticipated to improve sight distance at this location as a project design feature. In addition, Mitigation Measure TRANS-6b required the applicant to clear brush and any obstructions that limit the sight distance within the horizontal radius of Finley Road to ensure that adequate sight distance is provided for vehicles traveling north. The RDEIR concluded that with implementation of these measures, the potential impact would be reduced to a less than significant level. As noted above, the equestrian staging area is no longer a component of the Project and therefore no mitigation would be required.

Response to FISHER-2-7
The comment does not raise an issue with the environmental analysis. As noted above, the equestrian staging area is no longer a component of the Project and therefore no mitigation would be required.

Response to FISHER-2-8
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to FISHER-2-9
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to FISHER-2-10
The RWQCB requires a complete pre- and post-development BMP plan of any portion of the Project Site that is developed. This means that a water quality treatment plan for the pre- and post-developed Project Site must be prepared and implemented. Preconstruction requirements must be consistent with the requirements of the NPDES. That is, a SWPPP must be developed prior to the time that a site is graded. The SWPPP is a document that describes how a project will prevent pollution during the construction process. The SWPPP details how erosion will be prevented and how sediment will be controlled, as well as how other construction-related pollutants (i.e., construction dust and fluids from construction equipment) will be prevented. In addition, a post-construction BMP plan or a SWMP will be implemented to address stormwater capture and treatment prior to the time it leaves the Northern Site. The foregoing measures ensure that water quality standards set by federal and state authorities are respected. Mitigation Measure HYD-1 requires the applicant to submit a SWPPP for review and approval by the County prior to issuance of

grading permits. As noted above, the equestrian staging area is no longer proposed as a Project component.

Response to FISHER-2-11
Impacts associated with surface and groundwater are outlined in Impacts HYD-1 and HYD-2 starting on page 3.8-8 (Hydrology and Water Quality) of the RDEIR. No new on-site groundwater wells would be drilled as part of the Project. As explained in the WSE, the Project is anticipated to generate demand of up to approximately 48 acre-feet of potable water annually; refer to Section 3.11, Public Services and Recreation, for further discussion. See also Master Response 1: Water Supply and Distribution. The source of water originates primarily from surface water, and, therefore, the Project would not deplete groundwater supplies.

Response to FISHER-2-12
The conditions of approval for the Project would include a requirement that any and all wells within the Residential Development Area shall be capped and/or removed pursuant to applicable laws and regulations prior to issuance of building or grading permits.

Response to FISHER-2-13
As noted in RDEIR Section 2, Project Description, page 2-39, the Project proposes to augment the availability of water in the EBMUD service area by accelerating or expanding the implementation of currently planned EBMUD conservation measures sufficient to offset the Project's proposed water demand. Master Response 1: Water Supply and Distribution provides further discussion regarding EBMUD's consideration of the Project.

Response to FISHER-2-14
The commenter does not raise an issue with the environmental analysis. No further response is required.

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John Oborne

From: Terry Howland <thcestates@gmail.com>
Sent: Monday, July 18, 2016 4:43 PM
To: John Oborne
Subject: Tassajara Parks MOU

Hi John
I oppose the Tassajara Parks MOU, which is referenced in the Draft EIR. 1

--
Thanks, Terry

Terrance E. Howland
THC General Building Contractor, Inc.
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Terry Howland (HOWLAND-1) July 18, 2016

Response to HOWLAND-1-1

The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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Ruben Hernandez

From: Terry Howland <thcestates@gmail.com>
Sent: Monday, July 18, 2016 4:45 PM
To: Ruben Hernandez
Subject: Tassajara Parks MOU

Hi Ruben

I oppose the Tassajara Parks MOU, which is referenced in the Draft EIR. 1

--
Thanks, Terry

Terrance E. Howland
THC General Building Contractor, Inc.
License #618078

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Terry Howland (HOWLAND-2)

Response to HOWLAND-2-1

The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Tassajara Associates <tassajara.associates@gmail.com>
Sent: Monday, July 18, 2016 4:55 PM
To: John Oborne
Subject: Tassajara Parks MOU

Hi John,

As a landowner along Camino Tassajara, I oppose the Tassajara Parks MOU "preservation agreement."

#7 *"not to support or extend, or expand to urban infrastructure"* Shoulder widening on Camino Tassajara has already begun, it connects to urban develop and helps to alleviate the burden of traffic for commuters passing through to get to work.

#11. The Parties agree not to support any future urban development in the Tassajara Valley Agricultural Enhancement Area, except as otherwise provided in this MOU.

I doubt other Landowners would agree to #11. This agreement needs to be rewritten with Landowners in full agreement and in support of the County. It doesn't seem to be.

1

Sincerely,
Li Fun Kao

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Li Fun Kao (KAO) July 18, 2016

Response to KAO-1

The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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Douglas Lacey and Cindy Silvani-Lacey
5825 Old School Road
Pleasanton, CA 94588-9407 (unincorporated Contra Costa County)
12 July 2018

Mr. John Oborne
Project Planner
Department of Conservation and Development
Contra Costa County
30 Muir Road
Martinez, CA 94553

Re: Proposed Tassajara Parks Project – State Clearinghouse Number 2014052089)

Dear Mr. Oborne:

We should like briefly to state our concerns regarding some of the specifics in the DEIR dated 11 May of this year, as well as some of our general concerns about the project. We have been long-time residents of the Tassajara Valley and have learned by experience that EIRs almost always fall short of reality when dealing with prospective traffic flows. Likewise, the areas of the report regarding hydrology, agreements with the Parks Department, and the establishment of equestrian staging locations are troubling in their vagueness and reflect a poorly thought out plan going beyond the initial development of the 30 acres. 1

1. Traffic. The traffic analyses seem to point to the conclusion that the current congestion at Creekside elementary will be mitigated only with the addition of a couple of driveway lanes. I believe the numbers themselves in the analysis indicate that this will not really resolve the congestion that occurs now daily at the intersection – where cars block intersections and traffic flow comes to a halt twice a day during the schoolyear. 2

   We would assume from the language of the DEIR that they are taking into consideration all current and currently approved building and development permits in areas that would affect this stretch of Camino Tassajara. But I would ask specifically to know whether this includes the massive buildup that is currently permitted and underway in east Dublin along Tassajara Road. Since Camino Tassajara has now become a preferred route for avoidance of the 580-680 corridor, anything built along any portion of the road will add to that traffic. We look for specific confirmation that those building projects have been taken into consideration for the near-term impact. 3

   Likewise, referring to the EIRs that applied to the building of Creekside Elementary itself, you will find that no evaluation approached a reasonable estimate of the current traffic problems. We believe that this DEIR is deficient in its traffic analysis in this and other aspects and merits reconsideration and revision. 4

2. Hydrology: Two aspects of the hydrology report give pause. First, the groundwater that currently settles on the lands which encompass the development site help to replenish the underground water sources that eventually support the water supply to the unincorporated areas. By removing 30 acres from the equation and routing the water into a drainage system, it is not clear to us how that can have no effect at all on the underground water system that 5

supports the wells in the area contiguous to this development project. Secondly, the report seems to indicate that the existing wells will remain on the property, but not be used. That's for now. But leaving those wells uncapped and available for some future use again puts the underground water supply in peril. The report is unclear what the purpose of leaving the wells as they are is, if they are allegedly not going to be used. 5 CONT 6

Last Year, at the height of the drought, several wells ran dry in the area adjacent to Finley Road. At that time, despite the very critical needs of residents concerned not only for themselves, but also for the livestock they might have sought some assistance from EBMUD, which stated that they could not and would not assist the areas outside the ULL – residents were met with a brick wall. Now, however, they seem ready to allow their systems to be made available to transport water to the new development. No thought to the other residents of the area, who are still on a razor's edge regarding water supply. 7

In sum, we do not believe that the hydrology analysis gives adequate thought to impacts in the local area. The negative impact could and should at least be mitigated with the provision of additional hydrants near Finley, which could be used for better fire protection and as a source from which local homeowners could pay for water delivery if and when wells again run dry. 8

3. Nowhere in the DEIR is there any confirmation that the Parks Department will in fact agree to take over these lands that are to be donated or has the resources to follow through as active and necessary stewards of the lands. A plan or contract with the Parks Department needs to be a part of this EIR, insofar as the necessary stewardship of these lands is not at all spelled out. 9

4. The equestrian staging areas (both, but primarily the one on Finley Road) are inadequately addressed in the DEIR. The addition of people and vehicles where currently there are but a few, has not been thought out. 1. Safety: Finley Road is not safe for carrying this additional traffic, especially in the form of trailers. It is narrow and winding. Vehicles do exceed the speed limit, and there is no adequate policing of that road whatsoever. Resources need to be allocated to this safety concern. 2. Fire: the addition of people, vehicles, and livestock in an area where there is no hydrant or source for water in unconscionable. Especially when adding new homes that will be a party to that fire risk. Where people gather, the danger of accidental and non-accidental fire rises. 3. Crime: by proposing an unmonitored site available 24/7, unlit, and hidden on a small winding road, there needs to be a provision for security. The mitigation for this would be both a closing of the sites at dusk and an increased police presence. Otherwise, the neighborhood around Finley as well as those who live in the new homes will be put at risk. The DEIR is vague and silent on this issue. 10

We conclude by stating our general concerns:

Skepticism about the adequacy of the traffic analysis and proposed mitigations

Water concerns that are vaguely and unsatisfactorily addressed

Safety concerns that include personal security, fire protection, and traffic safety 11

We do not believe that the Parks Department has the resources available to be a steward to the lands they would acquire and the equestrian staging areas they would create.

We wonder why this project is even being considered, given the fact that at least two other sites could be available, sites that would meet the criteria of infill and would not become a part of the unending sprawls that is consuming a smaller and smaller protected Tassajara Valley from both the north and the south. 12

We appreciate this opportunity to respond, and we would also much appreciate being placed on notification lists for any and all matters that arise concerning the areas enclosed by the ULL. 13

Sincerely,

Douglas N. Lacey Cindy Silvani-Lacey

Douglas N. Lacey
Cindy Silvani-Lacey
5825 Old School Road
Pleasanton, CA 94588-9407
925-248-1531
dnlacey@att.net
csilvani@att.net

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Douglas Lacey and Cindy Silvani-Lacey (LACEY) July 12, 2016

Response to LACEY-1
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to LACEY-2
For informational purposes, please see Master Response 3: Transportation Analysis, which identifies the improvements proposed at the Tassajara Elementary School.

Response to LACEY-3
Section 4, Cumulative Effects, Table 4-1, Cumulative Projects, includes the list of all projects that were taken into account in the cumulative impact analysis.

Response to LACEY-4
The effects of the Project on traffic congestion is fully evaluated in Section 3.12, Transportation and Traffic, of the RDEIR. Please also see Master Response 3: Transportation Analysis.

Response to LACEY-5
Impacts associated with groundwater are outlined in Impact HYD-2 in RDEIR Section 3.8, Hydrology and Water Quality, on page 3.8-9. No new on-site groundwater wells would be drilled as part of the Project. Conversion of a relatively small amount of land, as proposed, would not be expected to result in significant changes to groundwater percolation. Furthermore, establishment of the retention basin would serve to enhance percolation of water into underlying soils and aquifers on-site.

Response to LACEY-6
The conditions of approval for the Project would include a requirement that any and all wells within the Residential Development Area shall be capped and/or removed prior to issuance of building or grading permits in accordance with all applicable laws and regulations.

Response to LACEY-7
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. The decision to extend water to the Project falls under the purview of the EBMUD Board of Directors.

Response to LACEY-8
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. The potential need for hydrants is a pre-existing condition and there is no nexus for mitigation to be applied to this Project.

Response to LACEY-9
The EBRPD provided comments on the DEIR in which they acknowledge the acreage to be dedicated and mention that the developer needs to work with EBRPD in determining the location and management prescriptions for the Conservation Easement, as well as on the development of the

Long Term Management Plan. Comment noted; the foregoing would be addressed in the Dedication Agreement entered into between the applicant and the EBRPD in accordance with resource agency requirements related to the mandated mitigation.

Response to LACEY-10
A sight distance analysis was conducted at the proposed driveway to the previously proposed staging area (see RDEIR Section 3.12, Transportation and Traffic, Impact TRANS-6, page 3.12-82). The northerly intersection sight distance is currently limited by the horizontal curvature of Finley Drive north of the driveway and the existence of brush within the curb radius. As shown in RDEIR Section 2, Project Description, Exhibit 2-9, the Project had previously proposed to realign the driveway onto Finley Road, which was anticipated to improve sight distance at this location, incorporated as a project design feature. In addition, Mitigation Measure TRANS-6b requires the applicant to clear brush and any obstructions that limit the sight distance within the horizontal radius of Finley Road to ensure that adequate sight distance is provided for vehicles traveling north. The RDEIR concluded that with implementation of these measures, the potential impact would be reduced to a less than significant level. As noted above, the equestrian staging area is no longer included in the Project, and therefore no mitigation would be necessary.

The commenter further provides conclusory statements about potential safety concerns associated with nighttime parking, crime, and local nuisances. However, the comment does not raise an issue with the environmental analysis. No further response is required.

Response to LACEY-11
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to LACEY-12
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. Please also refer to RDEIR Section 5, Alternatives to the Proposed Project, for a discussion of the viability of alternate sites.

Response to LACEY-13
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

CONTRA COSTA
2016 JUL 18 AM 11:58
APPLICATION & PERMIT CENTER

Gretchen Logue
1111 Country Lane
Pleasanton, CA 94588
Logue.family1111@gmail.com
925-786-6973
July 15, 2016

John Oborne, Senior Planner
Contra Costa County Department of Conservation and Development
30 Muir Road Martinez, CA 94553
Phone: 925.674.7793
Email: john.oborne@dcd.cccounty.us

Dear Mr. Oborne,

This letter consists of my comments on the Tassajara Parks Draft Environmental Impact Report.

3.1 - Aesthetics, Light, and Glare
Impact AES-1, AES-2 and AES-3 I 1

DEIR study is inadequate with the finding that the impact is less than significant and no mitigation is necessary.

The 30-acre proposed building site consists of a beautiful meadow in the spring. So beautiful that during the spring many people take photos of the wildflower display and the raptors soaring over the meadow looking for prey. Also, light from the housing development would impact the night sky and adversely affect nocturnal wildlife and stargazing.

This impact is significant and irreversible, and a more comprehensive study needs to be conducted.

3.2 - Agricultural Resources
DEIR study is inadequate with the findings that impact is less than significant and no mitigation is necessary.

The 30-acre proposed building site consists of Farmland of Local Importance, currently used as grazing land and as a walnut orchard in the past. Once this land is changed to urban use, it will no longer be available to produce food. 2

The impact is significant and irreversible, and a more comprehensive study needs to be conducted.

3.3 - Air Quality/Greenhouse Gas Emissions 3

The more accurate generated trips estimate of 2300 trips daily (please see Transportation and Traffic section) increases greenhouse gas emissions and decreases air quality and a new mitigation study ought to be conducted.

This study is inadequate as it does not include the significance of building over a natural Carbon Sink. A new study ought to be conducted to show the true environmental effects of losing a 30-acre+ (with grading) Carbon Sink. I suggest that the 30-acre building site plus the wetland area remain ungrazed and allowed to return to its natural meadow/wetland area for a duration of two calendar years to determine the true air quality and greenhouse gas emissions this development will create. 3 CONT

This impact is significant and irreversible.

3.4 - Biological Resources

The 30-acre proposed building site is habitat and reproduction grounds for several endangered species. Because the land has been heavily grazed by cattle, this area that is a natural wetland and which would support vernal pool(s) are dried up prematurely because of lack of vegetation. Beginning after the heavy rains of early spring many frogs (one only needs to be near the area in the evening to hear the frogs croaking), migratory birds (easily seen from street), possibly the Alameda Whipsnake and other amphibian species, are found on the proposed site, until the vegetation is eaten away by cattle and as a result pools of water dry up.

This study suggests that the San Joaquin Kit Fox has been extirpated from Contra Costa County, I disagree with that statement, as I have made several accidental observations of the illusive San Joaquin Kit Fox over the past 7 years. 4

As this study does address the issue of Nesting Raptors, it did not seem to address the loss of hunting ground.

This study is inadequate as it does not show the true take of endangered species and their habitat. A new more comprehensive study ought to be conducted by allowing the 30-acrea proposed building site plus the wetland area to remain ungrazed and allowed to return to its natural meadow/wetland area for a duration of two calendar years to determine the true take of endangered species and habitat.

Also, the reach of the contaminates/pollutants in the water released from the Tassajara Park's water basin into Tassajara Creek will far exceed the 30 acres, and the pollutants could potentially take many more endangered amphibians that will be exposed to the polluted water. Another study should be conducted to account for this inadequacy of the DEIR and should include the expertise from watershed and amphibian conservation organizations. 5

The wording in this DEIR is inadequate with regards to the 710 acres preserved in perpetuity for park, recreation, and wetland preservation and creation, and habitat for mitigation purposes. Parks and recreation development can have multiple meanings. Take Shark Park in San Francisco for example; Shark Park was deeded to San Francisco to be a public park, and San Francisco developed the land into a 6

golf course, which is destroying critical habitat for several endangered species among other things. Another example of a type of park use is off-highway vehicle. These are two examples of how the park and recreation land could be used.

Therefore, this DEIR needs a stronger and clear description that outlines future acceptable land use for the 710 acres given to be preserved. Such as; all 710 acres will remain open wildlife corridor(s), wildlife habitat, and mitigated endangered species habitats will be created, restored and monitored so that no natural or other causes will take essential habitat, especially breeding grounds, from wildlife. Wildlife habitat will not to be disturbed by public access, and no grazing or agriculture use to be allowed that will negatively affect wildlife habitat or open corridor(s). 6 CONT

3.8 - Hydrology and Water Quality

Impact HYD-2: The Project would not deplete groundwater supplies or interfere substantially with groundwater recharge.

This study seems to be inadequate.

The proposed 30-acre site consists of wetlands and is very likely to be a crucial groundwater recharge zone for the Tassajara Valley. Tassajara Valley residents depend solely on groundwater for our potable water. Not only will this development prevent water from soaking into the recharge zone, once it is released as "treated" water into the Tassajara Creek is will add pollutants to the watershed. The pollutants, such as herbicides, pesticides, oil and other contaminates, could potentially affect the quality of clean drinking water to Tassajara Valley residents and for native wildlife. Those contaminates could significantly affect the health of people in Tassajara Valley, native wildlife, heritage oaks, and the reproduction of amphibians. 7

The State of California considers groundwater to be a very important natural resource, so important that Governor Brown has signed into law the creation of the Sustainable Groundwater Management Act (SGMA). Although, this act concerns medium or high-priority groundwater basins in California and as far as I am aware the Tassajara Valley does not fall into that category, the land that the developer proposes for the 30-acre housing development, the staging area near Finley Road, and the 7 acres given to the SRVFPD, are all very likely to include recharge zones for Tassajara Valley's groundwater which feeds the Tassajara Creek and the Tassajara Valley residents' wells. I respectfully request that a long term study be conducted on all the parcels being considered for development, to determine the potential loss of groundwater and to determine how that will affect the Tassajara Valley watershed, aquifer and all Tassajara Valley Wells. Only then will we be able to determine the possible impacts to the Tassajara Valley watershed from the proposed development. 8

With the previous and continual development of local open space to create housing and other urban uses, the loss of potential groundwater recharge zones has been accumulating very quickly over the past 5-10 years. Many Tassajara Valley residents have seen their wells produce significantly less water, while others have seen their wells run dry. This serious issue of groundwater loss is a clear inadequacy of the DEIR, please do not approve this development or any other development outside the ULL without first

conducting long term studies of the accumulative effect of groundwater loss due to developing open spaces that are important parts of the Tassajara Creek Watershed, groundwater recharge zones and wetlands which hold water and feed the Tassajara Valley's groundwater system. 8 CONT

3.9 - Land Use, Population, and Housing

Voters have overwhelmingly approved an ULL, which clearly draws the line between urban and non-urban uses. Approving this development would only weaken the current ULL policy and provide a precedent for future urban development outside the ULL. This development will permanently destroy sensitive and critical habitat, substantially degrade existing wetlands, watersheds and agriculture land. 9

3.12 - Transportation and Traffic

The Traffic study is inadequate and needs to be redone for at least the following reasons:

1) Refer to Table 3.12-6: Tassajara Parks Trip Generation. The estimated number of trips generated from the residential component of this development is underestimated. One can easily estimate that each home will have two cars, each person will leave and return at least once a day, that is an additional 500 trips a day. The main reason people move to this area and buy single family homes, is for the schools. Each school has different drop off/pick up times, and elementary schools have several drop off/pick up times. A scenario for Driver A in an average family with two children, assuming the children are in different grades, would most likely have two different drop off/pick up times. That means that a driver will leave and return to their home two different times (4 trips) before 9:00am (the number of trips increases with the number of children). To simply drop off/pick up two children to school would generate 1000 trips daily (weekdays). Then one needs to add shopping trips, trips back to school to volunteer, afterschool activities, misc. trips for Driver A. A closer conservative average estimate for Drivers A would be closer to 2000 trips daily. Drivers B, would most likely have fewer trips and a conservative estimate would be 300 trips daily. That brings the conservative daily total to 2300 trips. One may argue that weekends produce fewer trips, but many families are incredibility busy with activities on weekends, so as the number of trips on weekends may decrease slightly it is unlikely to be a significant difference of total daily trips generated. This estimate does not include regular trips from service and maintenance providers, such as housekeepers, landscapers, nannies etc. 10

This more accurate estimate only increases the already "Significant unavoidable impacts" to traffic congestion.

2) The Study does not adequately account for the accumulative traffic congestion from the housing developments currently under construction in Dublin and the Alamo Creek housing development in Danville, all of which feed Camino Tassajara and the significant increase of drivers over the past year using Camino Tassajara as a short cut from 580 to 680. 11

3) The Study grossly overlooks the following intersections along Camino Tassajara: 12

- Camino Tassajara/Bruce Drive
- Camino Tassajara/Johnston Drive
- Camino Tassajara/Highland Road (has a signal light)
- Camino Tassajara/The many residential Driveways

The Traffic Study needs to be redone, and if the development is approved, the developer ought to install signal lights at all of the above mentioned intersections, including the Camino Tassajara/Finley Road intersection, or the speed limit on Camino Tassajara should be reduced to 25mph to allow for safer entry onto Camino Tassajara. 12 CONT

4) The Study does not include impacts to bicyclists. Camino Tassajara, Finley Road, Highland Road and Diablo Road are very popular bicyclist routes. A new Traffic Study needs to include the impact to bicyclist safety. 13

5) Finley Road is a narrow road with blind curves. This road is frequented by bicyclist, runners, pedestrians including children, pedestrians with dogs, horseback riders, rural residential traffic, wildlife (including endangered species), and occasional farm equipment. Increasing traffic on this road, especially with large horse trailers is a serious safety hazard. No mitigation can remove the serious impact of an Equestrian Staging Area. This should not be allow under any circumstances. 14

This Staging Area will also increase crime in the Finley Road neighborhood, as it will be a dark, isolated place for folks to hang out at night. The Contra Costa County Sheriff's Department should be consulted on a study regarding the potential increase in crime this staging area will create. 15

The beloved Tassajara Valley Old School House is located directly across the street from the proposed equestrian staging area site. If this Staging Area is approved, the developer ought to have a special fund dedicated to the upkeep of this important landmark. As it is quite conceivable that it will be vandalized by folks hanging out at night in the staging area. 16

If the Staging Area is approved the following road improvements need to be made: a signal light to be placed at Camino Tassajara/Finley Road, speed limit reduced to 15mph, crosswalks at each intersecting road up to and including the Staging Area entrance, additional road signs placed at Camino Tassajara/Finley Road and along Finley Road, informing drivers of blind curves, pedestrian crossings, endangered species habitat, horseback riders, bicyclist etc. The Contra Costa County Sheriff's Department will also need to have a greater presence in the vicinity of the Staging Area. 17

6) The Study does not include the impact to native wildlife (including endangered species) living in Tassajara Valley who need to cross Camino Tassajara, Finley Road and Highland Road in order to survive. The increased traffic from recently constructed housing developments in close proximity to Tassajara Valley have already had a significant negative impact on wildlife including injury and death. The speed limit should be reduced to 25mpr on Camino Tassajara and road signs informing drivers of blind curves, pedestrian crossings, endangered species crossing/habitat, bicyclist etc. The Contra Costa County Sheriff's Department will also need to have a greater presence on Camino Tassajara to enforce speed limit. 18

7) The Traffic Study states: Elementary School Driveway and Circulation Impact TRANS-4: The Project would not substantially increase traffic volumes and cause transportation facilities to degrade below acceptable standard levels at the Tassajara Hills Elementary School driveway.

This is an interesting proposal, as my three children have attended Tassajara Hills Elementary School (THE), and my youngest will be there another 5 years. The parking lot at THE is extremely congested at pickup and drop off. Although the SRVUSD states that the school is not at capacity, with regards to traffic congestion it certainly is at capacity.

It is in my opinion that the additions the developer is suggesting would not help the traffic situation significantly with the current enrollment numbers, and will not offset for the increased traffic that will occur with increasing the student population coming from the proposed housing development. 19

I request that a Traffic Study be done, that includes working with the Contra Costa County Sheriff's Department's, the THE PTA Safety Committee and THE Principal's, as they are very well aware of the dangers affecting the THE students with regards to our increasing traffic congestion. This development will also contribute to the increasingly dangerous traffic congestion on Camino Tassajara, for the THE students using the crosswalk to cross over Camino Tassajara, as more cars will be on the road in the vicinity.

3.13 - Utilities and Service Systems

It is my understanding the EBMUD has submitted comments on the inadequacy of this DEIR with regards to water service.

This DEIR should state that no storm water will be used and that no new wells will be drilled, and all existing wells will be permanently capped on the Northern site. If those items are not included then additional studies will need to be conducted to show impact. 20

Thank you for the opportunity to comment on the Tassajara Parks housing development.

Sincerely,

Gretchen Logue

Gretchen Logue (LOGUE) July 15, 2016

Response to LOGUE-1
The comment is noted. The commenter does not agree with the conclusions of the aesthetics analysis of the DEIR. As discussed in RDEIR Section 3.1, Aesthetics, Light, and Glare, on page 3.1-25, the lighting associated with residential uses on the Northern Site would be consistent with lighting in adjoining residential areas, and would not adversely affect nocturnal wildlife. Project lighting would be required to comply with County Ordinance restricting "light trespass" onto adjacent lands. Although the proposed development would result in additional nighttime lighting, it would not be substantial enough to result in a significant impact to wildlife or nighttime views.

Response to LOGUE-2
The farmland classification for the Project Site is discussed in Section 3.2, Agricultural Resources, on page 3.2-3, and soils characteristics are discussed on pages 3.2-4 through 3.2-5. No prime farmland (as defined under the FMMP) is located within the Project Site. The RDEIR also includes an evaluation of prime agricultural lands as defined in Section 56064 of the Government Code (RDEIR Section 3.2, Agricultural Resources, p. 3.2-13). Please also refer to RDEIR Response to Comment DAN-46, which provides additional support for the conclusion that the Project Site does not contain any land which meets this definition. CEQA does not recognize the conversion of Farmland of Local Importance as a significant impact, which the EIR correctly concludes.

Response to LOGUE-3
Permanently preserving approximately 727 acres as described in the RDEIR project description, and further clarified in the FEIR, provides a sizable area for maintaining existing sequestration levels and for potential sequestration enhancement projects. The Project would include landscaping with trees that would sequester carbon. The Project would require the removal of approximately 19 trees. In compliance with the County's tree preservation policies, the Project would be required to plant approximately 369 new trees as reflected in the Preliminary Landscape Plan. This planting program is expected to more than make up for sequestration losses from tree removal. In addition, any significant impacts to wetlands are required to be mitigated at a ratio of 2 to 1. A detailed technical analysis of impacts to sequestration has not been accomplished; however, the Project design features and mitigation measures to reduce biological impacts are expected to provide sufficient new sequestration to equal or exceed existing sequestration levels. Therefore, a detailed analysis of the sequestration was deemed unnecessary to conservatively conclude the impact would be less than significant.

Project trip generation was developed using Town of Danville rates, which is considered conservative since these local rates are higher than standard ITE rates. The rates used in this study are therefore representative of local trip generation characteristics. The related analysis of GHG emissions is therefore based on an accurate representation of Project trips.

Response to LOGUE-4
Impact BIO-1 states: "The Project may have an adverse effect on special-status plant and wildlife species. The Project Site contains suitable habitat for three special-status plant species, eight special-status wildlife species, and nesting raptors and other migratory birds protected by the Migratory Bird Treaty Act." Implementation of Mitigation Measure BIO-1-Nesting Raptors would reduce this impact to a less than significant level pursuant to CEQA. The RDEIR evaluates Project-related impacts to

endangered species and their habitats. CEQA requires that the evaluation of Project impacts be based on existing conditions. Regardless, the RDEIR assumes that the entire Residential Development Area and the other Ground Disturbance Areas are endangered species habitat, and mitigates for this impact at a 3:1 mitigation ratio for various species. This preservation, while not necessary to mitigate any significant impacts to raptor species, would also ensure that adequate hunting ground for raptor species exists. Finally, the commenter's suggestion that the Project Site be allowed to return to an ungrazed condition and then studied is acknowledged, but it is not legally required. The proper CEQA baseline here is the existing conditions as defined under CEQA, and the biological studies that support the RDEIR were prepared by expert Biologists, and any future surveys for sensitive species required as mitigation would also be prepared by qualified Biologists.

Response to LOGUE-5

The RWQCB requires a complete pre- and post-development BMP plan for any portion of the Project Site that is developed. This means that a water quality treatment plan for the pre- and post-developed Project Site must be prepared and implemented. Preconstruction requirements must be consistent with the requirements of the NPDES. That is, a SWPPP must be developed prior to the time that a site is graded. The SWPPP is a document that describes how a project will prevent pollution during the construction process. The SWPPP details how erosion will be prevented and how sediment will be controlled, as well as how other construction-related pollutants (i.e., construction dust and fluids from construction equipment) will be prevented. In addition, a post-construction BMP plan or a SWMP will be implemented to address stormwater capture and treatment prior to the time it leaves the Northern Site. The foregoing measures ensure that water quality standards set by federal and state authorities are respected. These considerations and other aspects of the Project's hydrology were appropriately accounted for in preparing the RDEIR and its analysis of impacts on biological resources, which were prepared by expert Biologists and Hydrologists. Therefore, no further study is necessary.

Response to LOGUE-6

Throughout the RDEIR in relevant sections (Land Use, Aesthetic Resources, Agricultural Resources, Biological Resources, etc.), the RDEIR confirms that the identified land would be permanently preserved and would be used for agriculture, open space, park and recreational uses, wetland preservation and creation, habitat mitigation, and scenic and other non-urban uses in accordance with the relevant ULL provisions as well as the PD zoning. There is no proposal to construct a golf course or active community park uses, and this 727 acres of land would be transferred in fee to EBRPD to ensure that only the foregoing contemplated uses are allowed. Furthermore, a significant portion of the Project Site would also be subject to a conservation easement for the benefit of the resource agencies, which would further ensure that the scope of uses would be consistent with those described. Please also refer to Master Response 2: Agricultural Preservation Agreement.

Response to LOGUE-7

Groundwater and surface water impacts are discussed in Impact HYD-1 and HYD-2, in RDEIR Section 3.8, Hydrology and Water Quality, p. 3.8-8. Hydrologic Supporting information and studies are included in Appendix G of the RDEIR. The appendix includes an analysis of the retention basin. The analysis confirms that the Project would not result in a significant negative impact on groundwater recharge or potability of existing wells in the area. Conversion of a relatively small amount of acreage of an approximately 771-acre Project Site would not be expected to result in significant changes to

groundwater percolation. Furthermore, establishment of the retention basin would serve to enhance percolation of water into underlying soils and aquifers on-site.

Response to LOGUE-8
See Response to LOGUE-7, above.

Response to LOGUE-9
The comment is noted. Please refer to RDEIR Section 3.9, Land Use, Population, and Housing, page 3.9-23, for a thorough description of the ULL and the findings and provisions that allow for it to be modified. Please also refer to Master Response 2: Agricultural Preservation Agreement. See also RDEIR Section 3.2, Agricultural Resources, pp. 3.2-12–3.2-15 (discussion of potential impacts on agricultural resources), and RDEIR Section 3.4, Biological Resources, pp. 3.4-57–3.4-77 (discussion of potential impacts on biological resources).

Response to LOGUE-10
As noted in Section 3.12, Transportation and Traffic, Table 3.12-6: Tassajara Parks Trip Generation, Note[1], for single-family residential uses, "Trip generation rates developed by the Town of Danville were used in this study. The Town of Danville's rates are higher than ITE rates and thus more conservative."

The traffic impact analysis considered the Project's potential impacts in AM and PM peak-hours, also consistent with the relevant agencies' requirements and protocol and industry standards. The comment's assertions regarding an alternative methodology would be inconsistent with the relevant agencies' requirements and protocols and industry standards. Therefore, the RDEIR fully evaluates the Project's potential traffic impacts and no additional analysis is warranted.

AM and PM peak-hour trips were used to determine transportation related impacts and mitigations. Regardless, the daily trip rate assumed for each single-family residential household is 12.17, which is based on survey data and includes trips to/from work, school(s), shopping, leisure, deliveries, etc. This means that for each household, there would be (on average) slightly more than six arrivals and six departures (or six round trips) per household, per weekday. While this comment could be true for some busy households, Town of Danville data shows that for the average home on the average weekday, daily trips are 12.17. Peak traffic occurs in the study area during weekday AM and PM periods. Therefore, the TIA analyzed reasonable worst-case conditions and given the suburban residential nature of the area, weekend traffic operations can be assumed to be better than what was analyzed.

Response to LOGUE-11
The 2035 CCTA travel demand forecast model was used to estimate cumulative traffic, which is consistent with the relevant agencies' requirements and protocols and also consistent with industry standards. Reasonably foreseeable future developments, including (among others) the specified housing developments mentioned by the commenter, are included in the CCTA model and therefore are analyzed in the TIA. Additionally, intersection, roadway, and freeway improvements anticipated to be implemented by the year 2035 were included in the analysis to ensure a consistent and comprehensive evaluation.

As explained more fully in the RDEIR, the Project's cumulative traffic impacts would result in potentially significant effects at 5 intersections and several freeway segments. Mitigation would return all 5 intersections to acceptable operations, but the freeway segment operation would remain significant and unavoidable. The RDEIR therefore appropriately evaluates the effects of the Project in combination with other reasonably foreseeable cumulative development.

Response to LOGUE-12
Please see Master Response 3: Transportation Analysis for a discussion of how study intersections were identified. The intersections listed in the commenter's letter did not meet the 50 peak-hour trip threshold to be included in the transportation analysis.

Regarding the need for signal lights and a reduced speed limits, RDEIR Section 3.12, Transportation and Traffic, evaluates the implementation of the Project and its effect upon traffic levels. The RDEIR includes feasible mitigation where needed to address potentially significant impacts.

The speed limit for Camino Tassajara and other roadways are determined by applicable law; the Project applicant has no control in this regard. The RDEIR (Section 3.12, Transportation and Traffic, pp. 3.12-63 and -64) evaluated this intersection and determined that the Project's impact would not result in the need for a signal pursuant to California Manual on Uniform Traffic Control Devices signal warrant guidelines.

Response to LOGUE-13
Please see Master Response 3: Transportation Analysis for a discussion of cyclist safety.

Response to LOGUE-14
As required under CEQA, the RDEIR and related traffic impact analysis evaluated the Project's impacts on transit, pedestrian, and bicycle facilities (see the impact discussion in Section 3.12, Transportation and Traffic, on pages 3.12-34 through 3.12-82). In addition, the RDEIR evaluated whether the Project, because of a design feature, would result in a significant safety impact. As explained more fully therein, the Project would have less than significant impacts for both of these items. CEQA does not require a separate analysis regarding "impacts to bicyclists" and bicycle safety per se, and, therefore, no further response is required. For informational purposes, see Response to RDEIR SOS-D-2 (regarding bike safety impacts).

The RDEIR at Impact TRANS-6 (RDEIR Section 3.12, Transportation and Traffic, pages 3.12-82 to -85) evaluated the Project's impacts on the previously proposed Finley Road Equestrian Staging Area, including with respect to sight distance for the previously proposed Project driveway on Finley Road. The RDEIR includes mitigation (Mitigation Measures TRANS-6a and 6b) to enhance safety for motorists, pedestrians, bicyclists, and equestrians. CEQA does not require a separate analysis regarding "impacts to bicyclists" and bicycle safety per se, and, therefore, no further response is required. Subsequent to the publication of the RDEIR, it was determined that an equestrian staging area would no longer be included as part of the Project and is thus no longer incorporated into any Project approvals. Accordingly, the Project applicant no longer proposes to realign the above-referenced driveway and Mitigation Measure TRANS-6b is no longer relevant, since the previously identified significant would no longer occur since the equestrian staging area is no longer part of the Project.

For informational purposes, please also see Master Response 3: Transportation Analysis.

Response to LOGUE-15
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments. The Contra Costa Sheriff's Department evaluated the Project and did not identify a significant impact related to use of the previously proposed equestrian staging area. As indicated above, the equestrian staging area is no longer part of the Project.

Response to LOGUE-16
As discussed in RDEIR Section 3.1, Aesthetics, Light, and Glare, page 3.1-14, the off-site schoolhouse would not be impacted by the proposed Project. Furthermore, any impacts to the historic resource as a result of the previously proposed Equestrian Staging Area would be speculative and would not provide a basis for requiring the applicant to fund ongoing maintenance of the building. Please refer to Response to LOGUE-15, above.

Response to LOGUE-17
Traffic impacts from the Project including those relating to the Finley Road Equestrian Staging Area are discussed in Section 3.12, Transportation and Traffic (e.g., at pp. 3.12-82, Impact TRANS-6). See also the discussion regarding potential transportation impacts under Impact Trans-6 on page 3.12-82, which includes mitigation measures to enhance visibility and safety at the staging area. However, subsequent to the publication of the RDEIR, it was determined that an equestrian staging area would no longer be included as part of the Project and is thus no longer incorporated into any Project approvals. Accordingly, Mitigation Measure TRANS-6b is no longer relevant, since the previously identified significant would no longer occur since the equestrian staging area is no longer part of the Project.

For a general discussion of the Project's potential impacts relating to the provision of law enforcement services, see RDEIR Section 3.11, Public Services and Recreation, at page 3.11-13 under Impact PSR-2. Please also refer to Master Response 3: Transportation Analysis for a discussion of safety at this location.

Response to LOGUE-18
As discussed in the RDEIR, including in Section 3.4, Biological Resources, on pages 3.4-77 and -78, the culvert crossing in Tassajara Creek would remain and would continue to provide a wildlife movement corridor. No additional culverts to provide wildlife passage are warranted for this Project because it would not significantly impact any migration corridors leading to Camino Tassajara. Regardless, there is a school and soccer fields immediately across the street from the proposed development, and wildlife species are most unlikely to cross Camino Tassajara to get to this site from the Project Site.

See Response to LOGUE-16, above. Speed limits are set by the relevant public agency in accordance with applicable laws, and the Project applicant has no control over them.

Response to LOGUE-19
See RDEIR Section 3.12, Transportation and Traffic, page 3.12-74 for a discussion of the Project's potential traffic impacts, including those near the Tassajara Hills Elementary School driveway, which confirmed that the LOS in the driveway study location would not degrade below acceptable LOS E

during the AM or PM peak-hours. This evaluation was conducted pursuant to relevant agency requirements and protocols, and industry standards. School peaks typically occur for 15 to 20 minutes, whereas the typical street peaks occur over a period of 1 hour or more. Also note that the Project includes circulation improvements to the school's parking area that the Project applicant has voluntarily agreed to perform—improvements that were identified by the Project's traffic consultant in consultation with the School District. The congestion at the school is an existing condition, caused by the school traffic and the decision of parents not to bus, walk, and bike their kids to school. The Project voluntarily proposes to improve site parking and circulation, provide an additional westbound right turn lane on Camino Tassajara, and improve access for pedestrians from the Project Site to the school; the foregoing improvements have been incorporated as project design features. These measures would improve traffic operations at the school and potentially shorten the time period of congestion at the school driveway. Regarding the voluntary parking lot and circulation improvements to Tassajara Hills Elementary School, there has been appropriate coordination among the County, the Project's traffic consultant, and the School District.

See RDEIR Response to SOS-D-2, which addresses the potential safety considerations. Please also see Master Response 3: Transportation Analysis for information related to traffic impacts at Tassajara Hills Elementary School.

Response to LOGUE-20

Impacts associated with groundwater are outlined in Impact HYD-2 in RDEIR Section 3.8, Hydrology and Water Quality, page 3.8-9 The EBMUD does not utilize groundwater in its potable water supplies and no on-site wells would be implemented as part of the project. Conversion of a relatively small portion of land of an approximately 771-acre Project Site would not be expected to result in significant changes to groundwater percolation. Furthermore, establishment of the proposed retention basin would serve to enhance percolation of water into underlying soils and aquifers on-site.

May 14, 2016

Reference: CCCounty File # GP07-0009, RZ09-3212, SD10-9280 & DP10-3008

CONTRA COSTA COUNTY

John Oborne
Contra Costa County Dept. of Conservation & Development
30 Muir Road
Martinez CA 94553

DEPARTMENT OF CONSERVATION & DEVELOPMENT

Dear Sir,

It's really quite simple, the zoning should remain unchaged, as agricultural use only. Commuters using Camino Tassajara are far too numerous already. Dublin is adding massive high-density housing at the Alameda County line and traffic will continue to be impacted throughout construction, development and move-ins. We're already choking in cars and traffic at all the elementary and middle schools and things will get worse with more homes going in at Alamo Creek. In your own report it is suggested that Transportation and Traffic cannot be mitigated to less than significant levels of impact. Hikers and bicyclists also frequent this area to enjoy open space and room on the road. I urge that DCD denies the application submitted by FT Land LLC due to the negative environmental impacts and their inability to mitigate those impacts. Thank you, Steven Lowhurst

Steven Lowhurst, 5224 Bengali Street, Danville, CA 94506

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Lowhurst (LOWHURST) May 14, 2016

Response to LOWHURST-1

The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

The RDEIR's traffic analysis appropriately considered all current and future development in the Project vicinity in accordance with CEQA requirements, including development within Dublin and Alamo Creek as appropriate. While the RDEIR concludes that the Project would result in significant impacts to transportation facilities, such conclusions are based on the fact that the impacted intersections are located under the jurisdiction of the Town of Danville or Caltrans and, therefore, the County has no control over the implementation or timing of suggested mitigation measures that would effectively reduce the project's traffic impacts to less than significant.

As noted in the RDEIR in Section 3.12, Transportation and Traffic, Mitigation Measure TRANS-1, requires the Project applicant to pay applicable TVTD fees for impacts to Caltrans facilities. The fees contribute to the construction of planned freeway improvements, including HOV lanes, auxiliary lanes, interchange improvements as well as other regional transportation improvements. Payment of these fees would help to reduce the Project's impacts on the I-580 and I-680 segments. However, because the implementation and timing of these improvements are beyond the control of Contra Costa County, and because it has not been quantified if these improvements would fully mitigate the Project's contribution to the existing deficiency, for purposes of a conservative analysis, the RDEIR concluded the impacts to freeway segments would remain significant and unavoidable.

Similarly, as noted in Mitigation Measures TRANS-2, 3a, 3b, 3c, and 3d, impacts to the identified intersections could be mitigated to a less than significant level through the optimization of signal timing and signal coordination. However, implementation and timing of these improvements are beyond the control of Contra Costa County, the RDEIR conservatively concluded that impacts to freeway segments would remain significant and unavoidable.

In summary, while the RDEIR concludes that significant traffic impacts would occur as a result of those projects, through the coordination with the Town of Danville, all impacts to local intersections could be reduced to a less than significant impact. However, it would be inappropriate for the Contra Costa Department of Conservation and Development to conclude as such prior to coordination with the Town of Danville.

Note that the RDEIR analyzed potential traffic impacts at the nearby Tassajara Hills Elementary School (see Impact TRANS-4). As concluded, the Project would not result in any significant impacts to the intersection serving the elementary school. On the contrary, the Project includes the funding and construction of improvements to the elementary school's access driveway and parking lot that would reduce existing on-site congestion and enhance on-site traffic flow thereby improving existing traffic operations during high traffic volume times (drop-off and pick-up). As such, the Project includes improvements that would help remedy the school's existing school traffic congestion.

Finally, concerning the author's comment about hiker and bicyclist use of the Project vicinity, as stated in Section 1, Introduction and Section 2, Project Description of the Draft EIR, the applicant

proposes to convey almost all of the Southern Site—approximately 609 acres (Southern Preservation Area) along with 101 acres of the Northern Site—to the EBRPD by fee simple transfer for the permanent preservation of these lands for open space, park, recreation and other non-urban uses. The fee simple conveyance to EBRPD would ensure that the 727-acre Dedication Area is protected and preserved in perpetuity for the following non-urban uses only: parks, recreation, open space, agriculture, grazing, scenic, wetland preservation and creation, and habitat mitigation.

As such, the vast majority of the Project Site would be maintained as open space and other non-urban uses including recreational hiking and biking as determined appropriate by EBRPD and otherwise in accordance with applicable laws and regulations. Note that the existing Class II bicycle lanes along Camino Tassajara from the Ballfields westwards would be preserved with implementation of the Project. A bike lane would also extend along the Northern Site's entire frontage. Furthermore, RDEIR Impact TRANS-8 addressed the Project's potential impact on alternative transportation, including bicycle facilities and concluded that impacts would be less than significant.

Janna Waligorski

To: Ruben Hernandez
Subject: RE: MOU Opposition / Submitted Comments 07/18/2016

From: Collier Canyon Ranch [mailto:colliercanyon@cs.com]
Sent: Monday, July 18, 2016 9:46 PM
To: Ruben Hernandez
Subject: Fwd: MOU Opposition / Submitted Comments 07/18/2016

Ruben, I received automatic repay from John Oborne that he is out of office, therefore I am forward comments to your attention.

John,
This email is to serve as a notice on behalf of this owner to express its opposition to proposed Memorandum of Understanding "MOU" document that County and other agencies consider to adopt. County and other agencies are planning to approve MOU without of any consideration or consent or approval whatsoever from the majority of the property owners of 17,718 acres your Exhibit "B, the land directly affected by MOU. 1

The following are some important reasons why this owner categorically opposes to be dragged into the process and negatively affected by MOU. Tassajara Parks or development of 125 houses, neither project whatsoever has nothing to do with the land included in MOU, Exhibit B" Tassajara Valley Agricultural Enhancement Area. This MOU document directly and negatively affects land of many property owners of the land included in Exhibit B"

1. Tassajara Valley Agricultural Enhancement Area (TVAEA) is a deception to public for the very simple reason: it does not provide any true agricultural enhancement to the farmers and property owners of the AG land that is included in TVAEA project. **The true enhancement would be if County would bring an irrigation water to the land in included in Tassajara Valley Agricultural Enhancement Area so this agricultural zoned land could be farmed, cultivated and planted with agriculturally commercial crops as it is require by Williamson Act.**

   TVAEA project, to the contrary of the common definition of "enhancement", further and permanently restricts any prospects for construction of water infrastructure to bring irrigation water from the local water agencies or irrigation districts. For this reason alone this owner strongly opposes to such a restriction that MOU unfairly inflicts on the owner. 2

   PLEASE NOTE: **IF THERE IS NOT IRRIGATION WATER, THERE IS NOT FARMING, AND ANY AGRICULTURAL OPERATION IS IMPAIRED. IT IS SIMPLE AS THAT!**

   Please note, that it was County zoning decision to put this land 17,718 acres Exhibit "B in AG zoning. Now it is County duty and obligation to facilitate in making this land agriculturally productive. Dressing up the title of the project with nice "agricultural" wording will not produce "Agricultural Enhancement" to the land. Only the improvement such as bringing water to AG land will improve the AG land!

2. Why does MOU, which is proposed by Tassajara Parks, apply to land (17,718 acres Exhibit "B") that has nothing to do with Tassajara Parks or proposed development of 125 houses on the Northern site. Please answer this question. 3

3. A formal review of the County Urban Limit Line is under way, so why not to modify the urban Limit Line for the Tassajara Parks project under that review. Why privately owned land (17,718 acres Exhibit B") located somewhere else in the county is being dedicated by MOU to something that is not in the benefit or interest of the property owners of that land, and why this land (17,718 acres Exhibit B") is being dragged into this process??? Tassajara Parks project and development of 125 houses can be approved without the overreach by the agencies to privately owned land (17,718 acres). MOU document is nothing but a further invasion and interference with private property rights of the majority owners of 17,718 acres that do not support your MOU proposal. 4

4. Why MOU is proposed as permanent solution, when the Urban Limit Line is reviewed every five years and expires in 2026. It is reasonable that growing population in area would require adjustment in urban limit lines, or zoning. So, why 5

County arbitrary favors MOU proposal in year of 2016 as a permanent decision about the future of 17,718 acres of the privately owned land. The county officials should be honest and truthful, and tell effected landowners what is behind this smocking screen "agricultural enhancement" Where is here the agricultural enhancement???
Again it is unfair to the majority of the property owners of this privately owned land (17,718 acres) because majority of the landowners do not support your MOU intention. 5 CONT

5. County has several tools (other than an MOU) to approve Tassajara Park project and the development of 125 houses, and cam modify the urban Limit Lines without of a public vote. Why this MOU is being done on the back of the property owners of 17,718 acres private owned land? 6

6. The area 17,718 acres privately owned land that is included in TVAEA is already outside ULL, so what is the true purpose of this MOU? 7

7. The MOU refers to "agricultural enhancement", but there is not true enhancement, instead MOU further restricts long-term land use that restricts agricultural adaptability and innovations. 8

8. In revised notice of preparation dated June 11, 2014 (NOP and EIR) there is not yet a clear picture how this developer will supply with water its project. Using the factor of minimum water usage per household (350 gallons/ day) wheeling of water is absurd. There must be consultation with Contra Costa Environment Health what is the approved ans suitable water supply for new constructions for the number of water connections required by this project. **If there is water for 125 new houses, there should be water for farmers/agriculture since agricultural preservation and agricultural enhancement are such a big priority for this county.** 9

9. In MOU document, point "**P"** there is a gross miss-characterization of the general use of the land in area included in TVAEA. This needs to be addressed and a true picture presented to the public, so we all can batter understand and evaluate what are Pros and Cons about the **Tassajara Valley Agricultural Enhancement Area project,** and more specifically what agricultural benefits and potential TVAEA may have on 17,718 acres
More specifically, what agricultural changes/improvements are projected by TVAEA

Current uses , number of acres in
orchards (_____),
vineyards (_____),
grazing (_____)
dry farming (_____)
rural residential uses (_____)
open spaces (_____)

Proposed agricultural enhancement, and potential agricultural enhancement impact on area included in TVAEA
orchards (_____),
vineyards (_____),
grazing (_____)
dry farming (_____)
rural residential uses (_____)
open spaces (_____) 10

10. In MOU document, in part "Agreement", point 4, we have a question: Who gave "The Parties" authority to make any decision about privately owned land (17,718 acres) and commit this land to be place on list with Association of Bay Are Government's List of Priority Conservation Areas.
In our opinion, " the parties" should first obtain approval from legal property owners to commit land (the agency does not own) to be place on any list. AND What remedies landowners have if they do not desire to be placed on such a list? 11

11. In MOU, Paragraph 12, point (d) Please explain what do the parties mean in this convoluted language in subparagraph (d). Has the County or agencies involved performed any assessment about groundwater potential for agriculture use in area 12

included in TVAEA?
In addition, there is not one method describing how the County is going to achieve the ground water management and improvement.

12
CONT

Please accept this email communication as a formal opposition to proposed MOU .

We also urge our elected officials to not to support this MOU document as it lacks merit for agricultural enhancement to AG land and to landowners of land included in TVAEA.

Thank you,
Manager, Anna Nahlik
Collier Canyon Ranch, LLC
Business: (925) 784-6917
Cell (925) 785-2015

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Anna Nahlik (NAHLIK) July 18, 2016

Response to NAHLIK-1
Please see Master Response 2: Agricultural Preservation Agreement.

Response to NAHLIK-2
The Agricultural Preservation Agreement (formerly referred to as the MOU) does not prohibit EBMUD from extending water services in the Tassajara Valley Agricultural Preservation and Enhancement Area for agricultural purposes.

The commenter also raises general opposition to the Project. Please refer to Master Response 4: General Comments.

Response to NAHLIK-3
Please see Master Response 2: Agricultural Preservation Agreement.

Response to NAHLIK-4
Although a formal review of the ULL is underway, an applicant is allowed to seek approval for an adjustment of the ULL separate from that formal process, as provided in Chapter 82.1-018 of the Contra Costa County Ordinance Code.

Please see Master Response 2: Agricultural Preservation Agreement. The full text of the Agricultural Preservation Agreement (formerly referred to as the MOU) can be found in Appendix L of the RDEIR. The Agricultural Preservation Agreement would emphasize the signatories' commitment to their respective current policies regarding the preservation of certain land in the County for agriculture and open space, wetlands, or parks. Consistent with the signatories' current policies, the Agricultural Preservation Agreement would promote ongoing agricultural activities through the purchase of land or easements from willing sellers, through continuing the Williamson Act program and its related tax benefits, as well as through technical support to better manage weeds and water. The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to NAHLIK-5
Please see Master Response 2: Agricultural Preservation Agreement.

The ULL was established in 1990 with voter approval of Measure C, and was originally set to expire in 2010. Public commitment to the ULL was reaffirmed through overwhelming voter support of Measures J-2004 and L-2006, the latter measure extending the term of the ULL through 2026. It is reasonable to expect that County voters will be given another opportunity to extend the term of the ULL sometime during the 2020–2026 voting cycles. While another extension certainly cannot be guaranteed, voters have thus far demonstrated a 36-year commitment to the ULL concept and there is no reason to expect public sentiment regarding the ULL to significantly change in the near future.

Response to NAHLIK-6
The comment is noted. Clarification of the Agricultural Preservation Agreement can be found in Section 2, Project Description, on page 2-15 subsection 2.2.6 of the RDEIR. Please also see Master Response 2: Agricultural Preservation Agreement.

Response to NAHLIK-7
Please see Master Response 2: Memorandum of Understanding (Subsection 1 and 4).

Response to NAHLIK-8
Please see Master Response 2: Memorandum of Understanding (Subsection 1 and 4).

Response to NAHLIK-9
The Project is proposing to obtain municipal water via EBMUD, subject to approval of a binding agreement with the EBMUD Board of Directors. Please see Master Response 1: Water Supply and Distribution for further discussion of the EBMUD process. The EBMUD Board, not the County, is the public agency that has the legal authority to grant a request to extend service to the Project.

Response to NAHLIK-10
The suggestions presented by the commenter in relation to the Agricultural Preservation Agreement (formerly referred to as the MOU), item P are noted and will be forwarded to County decision-makers.

Response to NAHLIK-11
The suggestions presented by the commenter in relation to the Agricultural Preservation Agreement (formerly referred to as the MOU), item 4 is noted and will be forwarded to County decision-makers.

Response to NAHLIK-12
The questions raised by the commenter in relation to the Agricultural Preservation Agreement (formerly referred to as the MOU), item 12 is noted and will be forwarded to County decision-makers. Please note that the Agricultural Preservation Agreement includes general goals and areas of focus for the Tassajara Valley Agricultural Preservation and Enhancement Area; specific implementation tools have not yet been compiled.

John Oborne

From: Karen Rasmussen <gkcattler@aol.com>
Sent: Monday, July 18, 2016 3:11 PM
To: John Oborne
Subject: Tsssajara Parks MOU

Dear Mr. Osborne, We wish to object to the MOU for the following reasons; It restricts the rights of private property owners, it is unrelated to the development being proposed(17, ooo acres of private property is a land grab). We are already ag restricted and placing a restriction on top of a restriction seems unrealistic. To never allow infrstracture to our drought stricken area is poor planning for the future. If East Bay water has water for a development, it should provide property owners that opportunity first. You call us ag enhancement, but it is just another name for ag preserve. Agriculture needs water and opportunity to use the land as such. 1 2
These are just a few objections, but just know we are an area that had been unfairly pinpointed. Sincerely, Gordon and Karen Rasmussen, Rasmussen Ranch since 1913.
Sent from my iPhone

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Gordon and Karen Rasmussen (RASMUSSEN) July 18, 2016

Response to RASMUSSEN-1
Please refer to Master Response 2: Agricultural Preservation Agreement.

Response to RASMUSSEN-2
Please see Master Response 1: Water Supply and Distribution.

Please see Master Response 2: Agricultural Preservation Agreement, which explains the Agricultural Preservation Agreement's purpose. The proposed Agricultural Preservation Agreement does not explicitly restrict, but does call for, the signing parties not to support proposals for extending urban infrastructure within any portion of the Tassajara Valley Agricultural Enhancement Area (TVAEA), consistent with the signatories' current policies on urban growth outside of the ULL/Urban Growth Boundary (UGB). However, it should be noted that the Agricultural Preservation Agreement does acknowledge existing exceptions to be made for uses such as agriculture, open space, wetlands, parks, and other non-urban uses. Therefore, current provisions would remain in place for landowners in the predominantly agricultural- or open space-zoned TVAEA area to receive municipal water in the future under certain conditions, consistent with the signatories' current policies on urban growth outside of the ULL/UGB.

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John Oborne

From: neil rosenberg <rosenberg.neil@gmail.com>
Sent: Monday, July 18, 2016 9:44 AM
To: John Oborne
Cc: District3; Supervisor Candace Andersen; District5; SupervisorMitchoff
Subject: Re: Tassajara Parks proposed development

July 18, 2016

Mr. John Oborne

Contra Costa County Department of Conservation

30 Muir Road

Martinez, Ca 94533

RE: Draft Environmental Impact Report (EIR) for Tassajara Parks Project

County File Numbers GP07-0009, RZ09-3212, SD10-9280, DP10-300

Dear Mr. Oborne;

I am writing this letter to express my concern that the Draft EIR did not fully address a number of negative impacts. Nor did the Draft EIR did provide sufficient mitigation measures to address these issues.

The issues that raise the most concern include:

1- Insufficient analysis of the impact of the development of the Northern parcel on the ground water supply including the impact of the grading, water retention, diversion and use of heavy construction equipment on the project.

2- The creation of a Staging area with parking (but no water supply) on the Northern parcel (off of Finley Road) creating an attractive nuance for unsupervised and lawless night time nonresidents; the impact of horse manure and urine running into the adjacent creek; and the impact on the narrow road for access by residents and horses sharing the limited roadway. and, 1

3- Increased traffic noise and congestion in a stressed an overdeveloped area of the County on Camino Tassajara.

Issue 1- Impact to Ground Water

First of all as way of introduction, my wife and I live on a ranch property (since 2001) located on Old School Road. We rely on a shallow Well for our household needs. Many of the Wells in the area, have been significantly impacted by continued development. For example, The Alamo Creek housing development (which is within the ULL) already has diverted and eliminated substantial areas for rain water to percolate into the water table. By allowing further development (by expanding the boundaries of the ULL) proximate to my area, you are putting multiple residents at risk of further limitation of water supply and potentially leaving them with no water at all. 1 CONT

Although many of the residents have installed water storage tanks the closest water utility, East Bay MUD has blocked access for water delivery trucks to procure water forcing the few remaining handful of water trucking companies to drive long distances to haul water at an exorbitant cost. 2

Should the development go forward, it would be my recommendation that mitigation measures be provided to the residents by providing access to a water hydrant near or close to Finley road such that water haulers can have access and transfer water to our tanks. Since the developer has secured such rights for the housing under development there should also be a requirement that water supply be extended and made available to the impacted community. Such residents would pay for the water via meters (or assessments) and not be blocked from access to the water. To the extent the developer is extending water lines to the Northern Parcel a more comprehensive analysis should be done on the viability of further extending the water to the impacted resident 3

2- Staging area

Providing a grated, but unpaved area for people to park horse trailers and therefore get closer to possible trails may at first be viewed as a positive improvement for the horse riding community and recreation opportunities for the County. However, the impact of such staging area has not been fully evaluated. Overall such an area would be a substantial nuance. Significant negative factors must be considered including:

- Staging horses with no water is unhealthy and increases risk of injury or exhaustion to the horses.

- Finley road was not engineered for heavy volume of traffic and has sharp turns and angles limiting for trailers and large vehicles. 4

- The proposed Staging area does not have current trail access. Such access is about one mile further down Findley Road. Since there is limited shoulder area for the horses there is a material risk of injury to riders and horses sharing the road with cars and trucks as the try to access the trail.

- Staging area is adjacent to an active runoff creek and creating staging area will result in manure, urine and garbage in the environmentally sensitive area.

- Significant risk that the Staging area will become an evening hangout and lead to property (and personal) damage.

Unless a more thorough plan is provided to address the structural issues and in addition an agreement reached with East Bay Parks to agree to control, monitor and maintain it the Staging area should not be part of the development plan. 4 CONT

3 -Overall Traffic Congestion.

As this project requires a super majority voter of Supervisors approval to extend the ULL beyond the voter approved limits, the standard (as well as the fiduciary duty) that should be applied requires them to be cautious and have a high level of confidence that the development will not materially impact the quality of living in the community. By approving this project, there will be a substantial negative impact on traffic congestion and safety to the community in and around Camino Tassajara Road. The EIR does not provide a sufficient analysis of this negative impact nor does it provide reasonable levels of mitigation to address the impact. 5

Thank you so much for allowing me to submit this comment letter. If you have any questions or would like to discuss my thoughts I can be reached at 925-963-3199 or by email at Rosenberg.neil@gmail.com.

Sincerely

Neil Rosenberg

5353 Old School Road

Pleasanton Ca 94588

cc: Board of Supervisors

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Neil Rosenberg (ROSENBERG) July 18, 2016

Response to ROSENBERG-1
Impacts associated with groundwater are outlined in Impact HYD-2 in Section 3.8, Hydrology and Water Quality, on page 3.8-9 of the RDEIR. No new on-site groundwater wells would be drilled as part of the Project. EBMUD does not utilize groundwater in its potable water supplies and no on-site wells would be implemented as part of the project. Conversion of a relatively small amount of land of an approximately 771-acre Project Site would not be expected to result in significant changes to groundwater percolation. Furthermore, establishment of the proposed retention basin would serve to enhance percolation of water into underlying soils and aquifers on-site.

Regarding the request for the Project to provide a water source at the point where the Northern Site meets Finley Road, for use by surrounding property owners to fill up their water storage tanks, the Project does not include creation of a water source at this location and instead merely proposes to obtain water service for the Project.

The RWQCB requires a complete pre- and post-development BMP plan of any portion of the Project Site that is developed. This means that a water quality treatment plan for the pre- and post-developed Project Site must be prepared and implemented. Preconstruction requirements must be consistent with the requirements of the NPDES. That is, a SWPPP must be developed prior to the time that a site is graded. The SWPPP is a document that describes how a project will prevent pollution during the construction process. The SWPPP details how erosion will be prevented and how sediment will be controlled, as well as how other construction-related pollutants (i.e., construction dust and fluids from construction equipment) will be prevented. In addition, a post-construction BMP plan or a SWMP will be implemented to address stormwater capture and treatment prior to the time it leaves the Northern Site. The foregoing measures ensure that water quality standards set by federal and state authorities are respected. Mitigation Measure HYD-1 requires the applicant to submit a SWPPP for review and approval by the County prior to issuance of grading permits. As noted above, the equestrian staging area is no longer proposed as part of the Project.

The RDEIR included a thorough evaluation of the effect of implementation of the Project on Traffic and Noise. As discussed in the RDEIR, with the implementation of mitigation measures, the Project would result in less than significant impacts on traffic and noise.

Response to ROSENBERG-2
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to ROSENBERG-3
As indicated by the commenter, water provided to the Project Site would be via EBMUD infrastructure, subject to approval by the EBMUD Board of Directors. EBMUD does not utilize groundwater in its potable water supplies and no on-site wells would be implemented as part of the project. As stated in Response to BURT-7, the Project would not be expected to result in significant impacts to groundwater flow in the Project vicinity. Conversion of a relatively small amount of land within an approximately 771-acre Project Site would not be expected to result in significant changes to groundwater percolation. Furthermore, establishment of the proposed retention basin would

serve to enhance percolation of water into underlying soils and aquifers on-site. Regarding the request for the Project to provide a water source at the point where the Northern Site meets Finley Road, for use by surrounding property owners to fill up their water storage tanks, the Project does not include creation of a water source at this location, but rather merely proposes to seek water service for the Project.

See Response to ROSENBERG-3, above.

Response to ROSENBERG-4
See Response to ROSENBERG-1, above. In addition, please see Master Response 3: Transportation Analysis.

Response to ROSENBERG-5
The "green buffer" would strengthen the purpose of the ULL via dedication of 727 acres of land in fee to EBRPD for the permanent preservation of these lands for open space, parks, recreation and other non-urban uses by establishing a physical permanent open space buffer to prevent urban sprawl, rather than imposing an actual restriction on the areas to the east. Please note that the Development Agreement and the Agricultural Preservation Agreement are separate documents. A development agreement is a voluntary contract between a local jurisdiction and a person who owns or controls property within the jurisdiction, detailing the obligations of both parties and specifying the standards and conditions that will govern development of the property. Although the agreements are voluntary, once made they are binding on the parties and their successors. A development agreement provides assurances to the developer that the development regulations that apply to the project will not change during the term of the agreement. The city or county may require conditions to mitigate project impacts, as well as clarification about project phasing and timing of public improvements.

The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

6/16/16
Mr John Oborne
Contra Costa County Dept. of Conservation Development
30 Muir Road
Martinez, CA 94553

RE: Proposed Tassajara Parks Project
County File # GP07-0009, RZo9-3212, SD10-9280, DP10-3008

Dear Mr. Oborne,
We were recently notified by other residents along Camino Tassajara Road between Finley Road and Windermere Road that the New Farm, Tassajara Parks Project is headed for approval by Contra Costa County and other government agencies.
We went on line to review the Draft EIR and are alarmed with the lack of attention to the traffic problems already in existence on the Southern stretch of Tassajara and along Highland Road.
We live off Johnston Road and have been residents here for 30 years and cannot believe the terrible increase in traffic over the last 10-15 years. We have a very difficult time accessing Tassajara from Johnston Road both in the peak AM and PM traffic rush hours and for most of the day. We literally take our lives into our hands trying to merge onto Tassajara with out being run off the road by a steady flow of traffic greatly exceeding the traffic limits. 1
The Draft EIR makes no mention of impacts to traffic beyond Finley Road-South where the road is only Two lanes and a very dangerous stretch to travel. Add in the increasing flow of bicycle riders and we are looking at a disaster waiting to happen. On top of that, we will have an additional 2000+ drivers traveling on our roads coming from the new developments in East Dublin scheduled to open in the next year. This will be a traffic disaster. 2
Please reevaluate the EIR and include all traffic along Tassajara, not just the Blackhawk area.
We need to have a stop sign or stop light at Johnston Road and Tassajara Road to safely merge with the speeding traffic. We need to have traffic enforcement to slow the flow of traffic along our county roads including Highland Road, including better signage and radar signs advising of drivers speeds in relation to posted limits. 3
Please address these issues before adding another 125 units (potential 250 additional cars) to our dangerous – over crowded road.
Sincerely,

Jim & Cathy Soulé

Jim & Cathy Soule'
7470 Johnston Road
Pleasanton, CA 94588
925-785-7843

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Jim and Cathy Soulé (SOULE) June 16, 2016

Response to SOULE-1
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to SOULE-2
As indicated in the TIA, study intersections were identified using guidelines from the Caltrans TIS Guidelines, CCTA's Technical Procedures, the Contra Costa County General Plan, as well as the Town of Danville and the City of San Ramon General Plans based on the anticipated Project trip generation and distribution. In addition, local jurisdictions including the City of Dublin, San Ramon, and Town of Danville were directly contacted for input regarding appropriate study intersection. In general, intersections that would experience at least 50 peak-hour project trips were selected for analysis.

Project trip distribution was derived by performing a select zone analysis using the 2013 CCTA Travel Demand Model from Contra Costa County. The travel demand model takes into account the proposed Project's land uses and likely travel destinations within the greater Contra Costa County region, distributing the trips accordingly. The travel demand model also takes into account baseline and expected future changes in the roadway network, including development in eastern Dublin. The RDEIR Section 3.12, Transportation and Traffic, at page 3.12-58 and Table 4-1 in Section 4, Cumulative Effects, shows the development projects and roadway improvements that were assumed in the model run analysis.

As indicated in RDEIR Response to DUBLIN-4, Project trip distribution on Tassajara Road between Windemere Parkway and Fallon Road, south of Finley Road would account for only a small portion of total project traffic. Because the potential traffic increase at these traffic intersections was less than the established threshold of 50 trips, these intersections were not included as study intersections. Refer to RDEIR Response to DUBLIN-5 for further discussion.

Response to SOULE-3
The comment is noted. The RDEIR addresses the Project's addition to existing traffic levels and includes mitigation where needed to address potentially significant impacts. Addressing existing traffic issues that are not a result of the Project is beyond the purview of CEQA.

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John Oborne

From: fsquires14@aol.com
Sent: Thursday, June 16, 2016 4:48 PM
To: John Oborne
Subject: Tassajara Parks development

Dear Mr. Oborne,

I am writing to you to express my stern opposition to the proposed Tassajara Parks development next to Tassajara Hills Elementary School. Our roadways can't handle any more congestion nor can our schools. Camino Tassajara has turned into a major commuter thoroughfare as it is and adding another 125 homes and 2+ driver's per home will push our roads even further beyond capacity. Not only is the serenity of the Town of Danville gone but the safety of our families has been compromised with the continued development of the Tassajara Valley. 1

Page ES-39 of the report discusses the "significant unavoidable impact" that this project will have on existing congested traffic and proposes to fund "optimization" of nearby traffic signals as a solution.

To think that "optimizing" traffic lights will help is laughable. The thought of an uncontrolled flow of traffic between the valley and 680 will simply turn Camino Tassajara into a freeway. 2

Where will all those additional children go to school when classes are already full? Packing even more children into full classrooms will hurt everyone from the kids, to teachers, to the budget, and ultimately property values. Greed has done it's work in Dublin and San Ramon, please don't let it creep any closer to Danville. 3

Sincerely,

Frank Squires
1088 Yorkshire Place
Danville, CA 94506

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Frank Squires (SQUIRES) June 16, 2016

Response to SQUIRES-1
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to SQUIRES-2
As indicated in RDEIR Section 3.12, Transportation and Traffic, as well as the corresponding Traffic Impact Analysis Study, the Project would generate new traffic trips that would contribute to already unacceptable traffic operations on Camino Tassajara under Near-Term and Cumulative Plus Project conditions. As such, mitigation would require the optimization of signal timing at the impacted intersections. In each instance, optimization of signal timing would bring the affected intersection back from unacceptable LOS to acceptable LOS. As such, traffic flow would be appropriately controlled within the acceptable LOS standards established by the Town of Danville and Contra Costa County.

As stated in the RDEIR, despite the acceptable LOS after implementation of mitigation, the conclusion that these impacts remain significant and unavoidable remains valid. This is due to several of the intersection locations within the Town of Danville. Implementation of the signal optimization to ensure acceptable LOS is beyond the control of Contra Costa County. As such, even though the mitigation would result in acceptable LOS, the County must, in accordance with standard CEQA practices and for purposes of a conservative analysis, concluded that impacts would still be significant and unavoidable.

Response to SQUIRES-3
As indicated in RDEIR Section 3.11, Public Services and Recreation, various levels of existing student capacity is available at Tassajara Hills Elementary School, Diablo Vista Middle School, and Monte Vista High School. Through consultation with the School District, it was determined that 125 single-family residences would generate approximately 121 school-age children.

As shown in Table 3.11-7 in Section 3.11, when coupled with other residential development projects and population growth in the Project vicinity, the Project incrementally contributes to the need for additional district resources. As a result, to help offset the construction or expansion of facilities, the procurement of equipment, and the hiring and training of additional personnel, the San Ramon Valley Unified School District collects mandatory school facility fees on new development projects in accordance with SB 50 and related State laws. As part of the Project entitlement process, the Project applicant would be responsible for paying its fair share of these school facility fees in accordance with applicable laws. As such, while the Project would result in additional school-age children, mandatory development fees would help offset potential impacts related to capacity and budget. Class sizes would continue to be limited by applicable regulations. Finally, consistent with SB 50 (Government Code § 65885), payment of adopted fees provides full and complete mitigation of school impacts.

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Subject: FW: Tassajara Housing Development

From: Lloyd Szabo [mailto:ldszabo57@gmail.com]
Sent: Thursday, July 21, 2016 7:28 PM
To: Ruben Hernandez
Subject: Tassajara Housing Development

Understand you are the person to contact in that both employees we were to contact are on vacation. That gives you the power to advance our concerns.
This development has it's faults, traffic,
overcrowding of schools, incorrect reports, and water runoff that supplies our wells.
Honestly my major concern is water. Water, that year by year, is harder to find. Water, that every time a new development is built, is harder to find. 1
There are homes and families here for over 100 years. We have been here since 1988 and have invested in the community and in our home. But the only way to survive is access to water. The same company that denied us that precious commodity is now able to provide it to 125 new homes without a problem.
If they could run a line to Finley Road, a couple hundred feet, we could access and purchase the water there.
Thanking you in advance.
Lloyd Szabo
1300 County Lane
Pleasanton, CA 94588

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Lloyd Szabo (SZABO) July 21, 2016

Response to SZABO-1

The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: mbwalley <mbwalley@yahoo.com>
Sent: Tuesday, July 12, 2016 4:25 PM
To: John Oborne
Subject: Tassajara Parks Development Project

Hello John,
I hope you are the appropriate person to receive this. Apologies if that's not the case and please will you let me know who is? 1

As a resident near this proposed development (I live at 255 Joseph Lane, very close to Finley Rd.), I oppose it for a variety of reasons.

1. First and foremost, I don't believe a proper assessment of the impact the development will have regarding water for the residents
in the Finley Rd, Old School Rd, Joseph Ln, Country Lane neighborhood has been considered. I'm sure you're aware that we are on wells and that many are showing declining yields and many have gone dry. The development will affect the watershed and water table and can only exacerbate an already precarious situation. 2

It also seems unethical to allow the said development and to grant it full water rights when in the immediate neighborhood you have our community that has been in existence for decades, yet is denied any water solution.

2. Traffic. The increased traffic from the development will create an even greater problem than exists currently Rush hour is a nightmare as the schools already create mass congestion. In addition, more cars/traffic etc. near the schools will also negatively impact safety. 3

3. The proposal considers a horse staging area. This would be a disaster. Finley road cannot support the increase in traffic and the road with no shoulder is hazardous for riders who still have to navigate over a mile of twisting road to get into the park. This is a real safety concern. 4

If the water issue can be resolved such that our neighborhood at least has access to water (whether through pipes, a hydrant for residents to use pay meters or allowing water trucks to serve our community), would consider revising my objection to the development. 5

Otherwise I remain opposed as there are no benefits and nothing but negative impacts on our community.

Matthew Walley

Sent from Yahoo Mail for iPhone

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Matthew Walley (WALLEY) July 12, 2016

Response to WALLEY-1
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to WALLEY-2
Groundwater impacts are discussed in Impact HYD-2, RDEIR Section 3.8, Hydrology and Water Quality, p. 3.8-9. Hydrologic Supporting information and studies are included in Appendix G of the RDEIR. The RDEIR analysis confirms that the Project would not result in a significant, negative impact on groundwater recharge or potability of existing wells in the area.

Response to WALLEY-3
The traffic analysis identified all significant Project-related traffic impacts, and it also identified feasible mitigation that would be imposed as enforceable conditions, as discussed in the TIA and Section 3.12 of the RDEIR. Please see Master Response 3: Transportation Analysis for a discussion of congestion.

Response to WALLEY-4
The RDEIR includes feasible mitigation (Mitigation Measures TRANS-6a and -6b) to enhance safety for motorists, pedestrians, bicyclists, and equestrians. CEQA does not require a separate analysis regarding "impacts to bicyclists" and bicycle safety per se, and, therefore, no further response is required. For informational purposes, see Master Response 3: Transportation Analysis.

Response to WALLEY-5
See Response to WALLEY-2, above.

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John Oborne

From: Christian Wiedemann <christian.wiedemann@gmail.com>
Sent: Monday, July 18, 2016 4:32 PM
To: John Oborne
Subject: Comments on Tassajara Parks Draft EIR

Mr. Oborne,

I'm writing to comment on the Draft Environmental Impact Report for the Tassajara Parks project, specifically on the following language from the DEIR:

- Executive Summary, Section 1.2.3 - Project Objectives
  - The objectives of the Project are to:
    - Strengthen the ULL's fundamental purpose by establishing a "green wall" of permanent physical and legal constraints to additional development in the Tassajara Valley.

- Project Description, Section 2.2.5 - Development Agreement
  - The project proponent and the County are considering entering into a Development Agreement to vest the ability to build the Project and secure funding from the Project proponent to support, develop, and implement policies, programs, and other actions intended to enhance agriculture and to preserve open space, wetlands, parks, and other non-urban uses in the Tassajara Valley. Such a Development Agreement does not involve any commitment to any specific project that may result in a potentially significant impact on the environment.

Regarding the Project Objectives language, the language seems to indicate that one of the objectives of the Tassajara Parks project is to restrict future development in the entire Tassajara Valley. This makes no sense, since no individual development project should attempt to permanently constrain future development in an entire geographical region of Contra Costa County that is unrelated to the project. The language should be removed from the DEIR.

Regarding the Development Agreement language, this language seems to refer to the proposed Tassajara Parks "preservation agreement", also called the Tassajara Parks Memorandum of Understanding, which is being drafted in coordination with the Tassajara Parks project as a means to allow the County to make a finding under the code ordinance that the Urban Limit Line can be modified for the project. A significant number of agricultural producers in the 17,000 acre area affected by the proposed agreement have already expressed strong opposition to the agreement, including members of my immediate family who run cattle there. Additionally, there are other more appropriate findings the County can make under the code ordinance to allow a modification of the Urban Limit Line for the project. Those findings do not require the invention of a "preservation agreement". Since the "preservation agreement" is still in a very early stage, and since it is unclear whether the County may choose to use a more appropriate finding in the code ordinance to allow modification of the Urban Limit Line for the project, the Development Agreement language should be removed from the DEIR. 1

Thank you for your consideration.

Regards,

Christian Wiedemann

--
Christian Wiedemann
415 794 3394 | christian.wiedemann@gmail.com

Christian Wiedemann (WIEDEMANN-C) July 18, 2016

Response to WIEDEMANN C-1

The significant open space buffer would strengthen the purpose of the ULL via dedications of 727 acres of land in fee to EBRPD for the permanent preservation of these lands for open space, parks, recreation and other non-urban uses by establishing a physical permanent open space buffer to prevent urban sprawl, rather than imposing an actual restriction on the areas to the east. Please note that the Development Agreement and the Agricultural Preservation Agreement are separate documents. A development agreement is a voluntary contract between a local jurisdiction and a person who owns or controls property within the jurisdiction, detailing the obligations of both parties and specifying the standards and conditions that will govern development of the property. Although the agreements are voluntary, once made they are binding on the parties and their successors. A development agreement provides assurances to the developer that the development regulations that apply to the project will not change during the term of the agreement. The city or county may require conditions to mitigate project impacts, as well as clarification about project phasing and timing of public improvements.

The remaining issues raised by the commenter concerning opposition to the Project do not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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Janna Waligorski

Subject: FW: Additional Comments - FW: I need your help!

From: Sandee Wiedemann [mailto:xosandee@earthlink.net]
Sent: Saturday, July 16, 2016 6:21 PM
To: Mary Piepho <Mary.Piepho@bos.cccounty.us>; John Kopchik <John.Kopchik@dcd.cccounty.us>
Subject: I need your help!

Mary & John, your concern about the consequences of the proposed MOU is sure appreciated.

My request is that the restrictions of the final MOU apply only to the project land. I do not see anything in the MOU that would benefit ag. We already have too many restrictions which make staying in business even more difficult.

San Ramon was a great place when it was 100 people; however, my family has for generations had the attitude that "we get to live here, why shouldn't they" and actively pursued ways to accommodate our new neighbors.

Now "they" are going to extremes to stop anyone else from getting to live here! Few families remain who have done the very hard work and risk-taking to survive in the ranching/farming business. 1

Others assume they are entitled to decide how best to "Preserve Agriculture," and know better how to do this than the families on the land. The developers have now joined with environmentalists to propose an MOU to "Enhance Ag."

The MOU includes not just the project land, as you know, but restricts 17,000 acres in the Valley. They propose making a one-time $4 million to a fund. This would barely begin to reinstate actual Ag Enhancement programs which have been cut, such as ground squirrel and thistle abatement.

I am fine with this development, even without the MOU. Please include this message in the project's DEIR.

Respectfully,

Sandee Wiedemann

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Sandee Wiedemann (WIEDEMANN-S) July 16, 2016

Response to WIEDEMANN S-1

The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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John Oborne

From: Kathleen Wolfe <wolfekat05@msn.com>
Sent: Monday, July 18, 2016 2:17 PM
To: John Oborne
Subject: Draft EIR

We would like to go on record that we are opposed to the Tassajara Parks MOU as mentioned in the Draft EIR. We are amazed that this is being considered without being notified by Contra Costa County. We do pay our taxes. 1
Sincerely,
Gary and Kathleen Wolfe
6911 Johnston Rd.
Sent from my iPhone

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Gary and Kathleen Wolfe (WOLFE) July 18, 2016

Response to WOLFE-1

The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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July 8, 2016

Dear all,

As a resident of Blackhawk, we oppose the Tassajara Parks Project because the Project will Block the views of our house almost completely and thus substantially damage the value thereof. The expansion of the City boundary will also damage the unique landscape along the Camino Tasajara which may never be restored if the houses are built.

We expect the Planner Office will take due consideration and NOT to approve the project.

Zhang Zhang
4610 Kingswood Drive, Danville

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Zheng Zhang (ZHANG) July 8, 2016

Response to ZHANG-1

The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

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June 6, 2016

3:30 session

Zoning Administrator's Meeting

Comments on the DEIR GP07-0009 RZ09-3212 SD10-9280 DP10-3008

Jaclyn Isip read the project description

Holly Newman:

Good afternoon. My name is Holly Newman. My husband Bill and I live at 7300 Camino Tassajara. Thank you for the chance to comment on the adequacy of the Draft EIR for the proposed Tassajara Parks project. We have identified 5 areas which we believe the DEIR is inadequately. First the DEIR does not adequately cover the reasons for the proposed rezoning of all 771 acres of the project from A-80 A to P1, nor does it adequately discuss the impacts of this rezoning. This is problematic, since pre-existing uses on P-1 zoned land can be expanded. P-1 Zoning allows anything under section 82-1 of the Contra Costa County Ordinances to be considered including 5 acres subdivisions for single family homes. While the change to P-1 rezoning may be a condition of turning over the southern section to East Bay Regional Park District for maintenance of a park. There is nothing in the DEIR that guarantees this would be so in perpetuity, it is suggested many times throughout the DEIR that this is the case, but the DEIR never presents any contract or any legal agreement that guarantees other land uses would not be considered. Second, the DEIR contains a contingent offer of land dedication to the San Ramon Valley Fire Protection District of 7 acres of the southern parcel but this dedication has not been accepted by the SRVFP District. There already is a pre-existing fire facility close to or perhaps adjacent to that site today. The concern is if SRVFPD turns down the offer, then someone has at least 7 acres and a pre-existing use that would theoretically allow them under P-1/P-S to develop this parcel. The impact of this rezoning in general and of this 7 acre site in particular needs to be resolved and circulated to the public before the DEIR can be complete. Third, water the hydrology report included in the DEIR appendix focuses mainly on storm water control. No information regarding the underline aquafer or aquafers is presented. Since all the existing homes to the southeast of the northern development are dependent on wells and ground water, this DEIR needs to include some estimation of where these aquafer's are and how any project activities would affect these existing wells. For example, how would project grading affect their re-charge and where they drain? Similarly, how would the proposed soil rearrangement and the introduction of impervious services affect these aquafers? In addition, neither the geology report nor the hydrology report included in the DEIR include any borings deeper than 40 feet. This means that much of the water that might otherwise percolate into the soil maybe converted into a surface well, making it unusable as a groundwater source. This lack of information is a serious inadequacy of the DEIR. 4th, this efficiency analysis giving in the water supply in the evaluation assumes a fixed 57 acre feet per year from the recycle water option, independent of drought conditions. But it is likely that this volume would draw in a drought since water prices would rise and calls to conserve water would increase. One can argue that usage by the proposed development would drop too, but would it drop at the same rate? Would the East Bay Municipal Utility District drop their supply before the 41 acre feet per year sited as the minimum needed for the development in drought conditions? The analysis in the

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DEIR may be unrealistic in assuming that 57 acre feet per year would always be available. Finally, a number of key exhibits are missing from the DEIR. In particular, the term sheet called Exhibit I and the water supply of valuation is missing. This is the only evidence that the Calavares Public Utility District and the developers have any agreement at all. Also, Exhibit 2 & 3 are missing from this same section. And there is no evidence from East Bay MUD that it has approved the second option of supplying potable water, if the project installs recycle water pipe along San Ramon Blvd. Further, the terms are not discussed. e.g. is it one for one exchange for recycled water for potable water? Or not? These inadequacies of the DEIR must be addressed as well. Thank you for letting me speak today.

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Comments from Zoning Administrator's Meeting, June 6, 2016

Holly Newman (NEWMAN)

Response to NEWMAN-1
The commenter provided introductory comments. No response is necessary.

Response to NEWMAN-2
The proposed redesignation of the Project Site to Planned Unit District (P-1) is necessary to allow for the 30-acre residential development and to ensure permanent preservation and protection for park, recreation, open space, agriculture, grazing, scenic, wetland preservation and creation, and habitat mitigation land uses for the remainder of the Project Site. The General Plan designation for the protected lands would be PR and PS, neither of which allows subdivisions.

As outlined in the P-1 Planned Unit District description provided by the Applicant, for the portion of the Southern Site designated Parks and Recreation (PR) under the General Plan, the following uses are allowed:

- Parks, recreation, open space, grazing and other uses consistent with an EBRPD Master Plan, as amended and adopted by the EBRPD Board.

For the portion of the Southern Site designated Public/Semi-Public (PS), the following use is allowed upon issuance of a discretionary Land Use Permit/Development Plan:

- Public safety training facilities for the San Ramon Valley Fire Protection District

As such, on-site development would be strictly limited by the P-1 Planned Unit District, allowing only those uses proposed as part of the Project. Note that any future uses on the Potential Future Fire District Parcel would be required to comply with the County's ULL and related policies and would be required to comply with all applicable environmental review requirements under CEQA (which would be triggered because the SRVFPD would be required to obtain a discretionary land use permit from the County).

Because the Planned Unit District zoning designation has been specifically tailored to limit development on the Project Site to what was proposed as part of the Project, and because those uses have been appropriate analyzed in the RDEIR, impacts of the rezoning have been adequately disclosed.

As stated in RDEIR Section 2, Project Description, approximately 609 acres of the Southern Site and 101 acres of the Northern Site are proposed for transfer to EBRPD through fee simple conveyance (subject to a portion of it being covered by a conservation easement for purposes of wetland creation and preservation and habitat mitigation, as approved by relevant resource agencies). Transfer of the foregoing Dedication Area to EBRPD (which would be imposed on the Project as an enforceable condition of approval as well as a requirement under the Development Agreement as a condition of final map recordation) would ensure permanent preservation and protection for park, recreation, open space, scenic, agriculture and grazing uses as well as wetland preservation and creation, and habitat mitigation (as approved by relevant resource agencies). The legal mechanism used for the transfer of land in fee to this public agency would ensure preservation in perpetuity.

Response to NEWMAN-3
As stated in RDEIR Section 3.9, Land Use, Population, and Housing, in the footnote on page 3.9-27, in the event the SRVFPD does not accept the contingent offer of dedication, then this 7-acre parcel would be conveyed to the EBRPD in fee along with the other acreage in the Dedication Area and thus would be preserved in perpetuity for park, recreational, open space, scenic, grazing, wetlands preservation and creation, agricultural, and habitat mitigation purposes. Therefore, development of the 7 acres would be strictly limited to that allowed by the P-1 zoning.

Because the P-1 zoning designation has been specifically tailored to limit development on the Project Site to that proposed as part of the Project, and because those uses have been appropriate analyzed in the RDEIR, impacts of the rezoning have been adequately disclosed. Recirculation of the RDEIR is not required on this basis.

Note that if the SRVFPD accepts the contingent offer and eventually seeks to pursue development of this parcel, that proposal would be required to comply with the Public/Semi-Public land use designation, the County's ULL and related policies, and the restrictions set forth in the Project's P-1 zoning. The proposal would also be required to comply with all applicable environmental review requirements under CEQA (which would be triggered because the SRVFPD would be required to obtain a discretionary land use permit from the County).

Response to NEWMAN-4
As stated in RDEIR Section 3.8, Hydrology and Water Quality, a 2015 Geotechnical Exploration and Preliminary Geotechnical Report indicated that groundwater was not generally encountered within upland areas of the Northern Site. Groundwater was encountered at depths of 5 to 10 feet below surface within the Southern Site.

As shown in RDEIR Section 2, Project Description, Exhibit 2-14, the on-site areas of greatest cut would occur in the upland area along the northern boundary of the Residential Development Area, and within the proposed retention basin located partially within the upland area east of the Residential Development Area. Because groundwater was not encountered within upland areas of the Northern Site, impacts to groundwater flow would not be expected to occur.

Conversion of a relatively small of land within an approximately 771-acre Project Site would not be expected to result in significant changes to groundwater percolation. Furthermore, establishment of the proposed retention basin would serve to enhance percolation of water into underlying soils and aquifers. Implementation of recommendations set forth in Final geotechnical reports, as requirements to be imposed on the Project via conditions of approval, would further ensure that impacts to existing groundwater tables as a result of grading would be avoided or minimized.

Response to NEWMAN-5
The recycled water option is no longer proposed. Please see Master Response 1: Water Supply and Distribution.

Response to NEWMAN-6
The commenter stated that Exhibits 1 through 3 of the WSE were missing from the Draft EIR. These exhibits were inadvertently omitted from Appendix J of the Draft EIR, but were included in the RDEIR.

The recycled water option is no longer proposed. Please see Master Response 1: Water Supply and Distribution.

DRAFT EIR TASSAJARA PARKS 6/6/16

Thank you for the opportunity to speak to you today. I would like to address ~~five~~ seven items: the premature expansion of the Urban Limit Line; the inadequate notification of this meeting using outdated, undated address lists; the limited traffic study which only looked at am and pm "commute hours" but ignored the significant impact three schools' dismissal times; the mistakes in the EIR maps, the piggy-backing onto the Wendt Ranch GLAD ; and the unaddressed provisions in case of unexpected ground water disruption. 1

RECEIVED
6/6/16
ZONING ADMINISTRATOR HEARING
AGENDA ITEM # 2A

The Urban Limit Line should not be adjusted. Just because you can does not mean that you should. The project does not meet the parameters for change. The 30 acres of development doesn't mention the extensive grading (30 additional acres) to fill the location up 10-20 feet. This brings the project to over 60 acres. 2

The notification of this public meeting used undated ,and most seriously, inadequate mailing lists. People did not receive their letters due to incorrect cities, deaths and property transfers. When brought to the county's attention, I was told "they" had done everything they were legally required. At least 12 letters were returned , but the project planner was unaware until asked to look. A 1998 letter references a 1994 property transfer, but letters are still sent to the previous owner. I would ask that this meeting be rescheduled after a corrected mailing list is obtained and reposted. 3

The EIR is inadequate because the traffic study did not take into account the area's three schools' dismissal times which all affect traffic flows in the afternoon before the study begins at 4 o'clock. By carefully limiting the pm hours, the traffic study avoids the 4

DRAFT EIR TASSAJARA PARKS 6/6/16

problem intersections present in the am. By implying that these are isolated and limited to the morning, even though they cannot be mitigated, the EIR denies their impact to all day. 4 CONT

Mistakes are made in the labeling of maps 2-3a, and 2-10. 5

The EIR also does not have its own GLAD, saying that it will use whatever the Wendt Ranch GLAD found. This is unacceptable. Wendt Ranch is not contiguous with the Tassajara Parks project and does not share similar site attributes. 6

Lastly, when the digging of the Bettancourt Ranch retention pond in the 1990's caused Lawrence Road wells to go dry, what provision is being made to protect Tassajara Valley's ground water and aquifer for the population who depend on them for water? 7

Dorothy BURT

RECEIVED
6/6/16
ZONING ADMINISTRATOR HEARING
AGENDA ITEM # 2A

Dorothy Burt (BURT) June 6, 2016

These comments were provided verbally at the June 6, 2016 Zoning Administrator Hearing.

Response to BURT-1
This is a summary of the commenter's points. Please refer to Responses to BURT-2 through BURT-7.

Response to BURT-2
As discussed in Section 3.9, Land Use, Population, and Housing, of the RDEIR, and codified in Section 82-1.018 of the County Ordinance Code, after holding a public hearing a four-fifths vote of the Contra Costa County Board of Supervisors can change the ULL by up to 30 acres, as long as the 65/35 standard is maintained and one of seven predetermined findings are made. As such, the Project would be required to meet the parameters for adjustment. Refer to Section 3.9, Land Use, Population, and Housing (page 3.9-23) of the RDEIR for further explanation.

As indicated in Section 2, Project Description, of the RDEIR, approximately 28.47 acres of land outside the 30-acre ULL adjustment area would require grading as part of the Project. No urban uses would be established outside the 30-acre adjustment area. On the contrary, consistent with the intent of the ULL as cited in County Code 82-1.006, areas of the Project Site outside the 30-acre development area, including those areas requiring site grading, would be preserved for agricultural, open space, wetlands, parks and non-urban uses.

As indicated in County Code Section 82-1.032 and consistent with the approach typically taken in the County, the term "nonurban uses" means "rural residential and agricultural structures allowed by applicable zoning and facilities for public purposes, whether privately or publicly funded or operated, which are necessary or desirable for the public health, safety or welfare by state or federal law." Remedial grading that would take place outside the 30-acre ULL adjustment area would be conducted to reduce existing and potential landslide risks, which is necessary and desirable for public safety. As such, the ULL adjustment area need not include the additional grading area. It is within the Board of Supervisor's discretion to interpret the ULL policies to the proposed non-urban uses.

Response to BURT-3
The Notice of Availability for the DEIR, as well as notification of the Zoning Administrator's meeting was recirculated and the DEIR comment period extended from June 27, 2016, to July 18, 2016, to allow adequate time for agency and public comment. The RDEIR circulated for public review and comment from September 29, 2016, to November 14, 2016. Consistent with CEQA Guidelines Section 15087, notice of the RDEIR's availability was mailed to the last known name and address of all individuals who have previously requested such notice in writing, and the owners and occupants of property contiguous to the parcel or parcels on which the Project is located. The RDEIR was also made available at numerous locations for public review, as well as being made available for review on-line at the County's website. Please refer to Response to RDEIR comment CPC-2 for locations.

As such, the RDEIR was adequately noticed in accordance with CEQA Guidelines.

Response to BURT-4
The three schools located closest to the Project Site are the Tassajara Hills Elementary School, Diablo Vista Middle School, and Creekside Elementary School.

As indicated in the Traffic Impact Analysis prepared for the Project, weekday intersection turning movement counts for the 17 existing study intersections were collected during the AM (7:00 a.m.–9:00 a.m.) and PM (4:30 p.m.–6:30 p.m.) peak periods of the weekday when local schools were in session. As such, the AM peak period included morning school traffic. Additional counts, at the request of the Town of Danville, were collected at Intersection #2 (Camino Tassajara/Lusitano Street/Tassajara Hills Elementary School Driveway) during a typical weekday during the school dismissal period (2:30–3:30 p.m.) to analyze the intersection's operations during the dismissal time. As concluded in the Traffic Impact Analysis and the EIR, the project would not result in any significant AM, PM, or afternoon impacts to the adjacent intersection that serves Tassajara Hills Elementary School.

Diablo Vista Middle School is located at the intersection of Camino Tassajara and Hansen Lane, which was included in the Traffic Impact Analysis as Study Intersection #4. This intersection would not experience unacceptable LOS levels in the near-term plus Project or cumulative plus Project scenario's PM peak-hours. Since the Project's addition to traffic levels outside the peak-hours would be lower, the additional traffic during the afternoon school dismissal period would similarly not result in unacceptable LOS.

Creekside Elementary School would not serve potential elementary age residents of the Project Site, as they would be expected to attend Tassajara Hills Elementary, which is directly adjacent to the Project Site. Therefore, the Project would not be expected to increase traffic trips to this school. Note that analysis of the intersections along Camino Tassajara that indirectly serve this school (such as Camino Tassajara and Blackhawk Drive/Chambray Street) were included in the TIA.

Response to BURT-5
Both of the identified errors were corrected in the RDEIR.

Response to BURT-6
The issue raised by the commenter concerning opposition to the Project does not raise any specific issues with the environmental analysis provided in the RDEIR. Please refer to Master Response 4: General Comments.

Response to BURT-7
As stated in Section 3.8, Hydrology and Water Quality, of the RDEIR, a 2015 Geotechnical Exploration and Preliminary Geotechnical Report indicated that groundwater was not generally encountered within upland areas of the Northern Site. Groundwater was encounter at depths of 5 to 10 feet below surface within the Southern Site.

As shown on Exhibit 2-14 of the RDEIR (Project Description), the on-site areas of greatest cut would occur in the upland area along the northern boundary of the residential area, and within the proposed retention basin located partially within the upland area east of the Residential Development Area. Because groundwater was not encountered within upland areas of the Northern Site, impacts to groundwater flow would not be expected to occur. Conversion of a relatively small

amount of land within an approximately 771-acre Project Site would not be expected to result in significant changes to groundwater percolation. Furthermore, establishment of the proposed retention basin would serve to enhance percolation of water into underlying soils and aquifers. Recommendations set forth in the Final geotechnical reports, as required by the Project's conditions off approval would further ensure that impacts to existing groundwater tables as a result of grading would be avoided or minimized.

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June 6, 2016

3:30 session

Zoning Administrator's Meeting

Comments on the DEIR GP07-0009 RZ09-3212 SD10-9280 DP10-3008

ZA: The next speaker is Gary Black

Gary Black:

Thank you my name is Gary Black. I with the San Ramon Valley Unified School District. I am the Superintendent of the Facilities there. From the EIR perspective only the school district has a few concerns. We do have concerns with the project in general. But that is for a different prevue. So dealing with the EIR only at this time, our concerns would be based on upon the traffic that the project would increase. We anticipate 68 additional students so those elementary students would need to either walk or ride their bikes to the campus adjacent. They would either have to go through a pedestrian access that I believe is being planned, but we would need to see more specifics of the access, the ADA compliance, the grade and how they would get on to our campus, that sort of thing. We also would like to see, if at all possible, the pedestrian access being expanded so there can be a secondary alternative emergency vehicle access. Because it's a very much a land locked site. There is one way in, currently 3 lanes, which is in sufficient development. The development proposes to expand that, which is fantastic. That will make a big difference to the drive access. No question. The statement in the EIR for impact on trans-4, states that the project would not substantially increase traffic volume or cause transportation facilities to degrade below acceptable standards. I can't speak to substantially increase traffic volume and what that standard is but I can say from a school district perspective, we believe that, that standard and threshold with existing traffic, existing facilities and residential units is already degraded to a point where it's from a school district standard, maybe not traffic standard, but from pedestrian standard and walking, biking and parental pick up and drop off, certainly um, extremely challenging, creates a quite a issue each morning and each afternoon. Such that the parents, again this is not necessarily just, this is not the impact necessarily of the development, but its current conditions which we believe are already below and potentially causing additional risk for our students. So much so the parents won't enter the drive way in the parking lot currently so they drop their kids off across the street, across a 4 lane 45 mph street. We, the District has studied it and determined that regardless of traffic counts and numbers, we're actually paying now out of general fund education dollars for crossing guard there because the speeds are too great and people just, there is too much risk. So we got that concern as well. There were initial discussions over the past like three years of various versions of the proposed development where the school district was being similarly to East Bay Regional and/or the Fire Department. There was additional land, some different things that were really wonderful potentially for us if this project were to go forward those all subsequently been eliminated except for the parking lot and drive way improvements, which again will make a substantial improvement to our facility? Just not as much as early on, we were hoping for. But sometimes that's the way things go. What we would like is more definition and more detail on some of the proposals, for instance the page where the traffic engineer or architect re-did the parking lot for Tassajara Hills, which has some great ideas in it. It was just done without our participation. Again great ideas, appreciate those ideas coming forward, but they can't be

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utilized because we are putting a solar project in the middle of that parking lot this summer. So we ask that all of that be re-looked at, as well as more detail and cross sections and elevations at the drive in entrance and the far end of the parking lot, where the staff parking would tie in, where we would see more specially s being proposed. Not the throw mud but we are concerned because earlier discussion proposals and hoped for dedications and abilities to receive land, purchase land one or the other, to expand our parcel and not be land locked by development for that site. We just like to see more detail in the process now because the trust level is not necessary there that the developer might actually, unless it's spelled out specifically that they wouldn't perform as exactly what we would need so, with EIR so that's our concerns. Thank you.

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CONT

San Ramon Valley Unified School District (SRVUSD) June 6, 2016

The following comments were provided orally at the June 6, 2016, Contra Costa County Zoning Administrator's Meeting.

Response to SRVUSD-1

As indicated in Section 3.12, Transportation and Traffic, of the RDEIR, Impact TRANS-4, the Project would not substantially increase traffic volumes and cause transportation facilities to degrade below acceptable standard levels at the Tassajara Hills Elementary School driveway. Existing deficiencies, not caused by the Project, are presently related to congestion at and adjacent to the school site at pick-up and drop-off times. As part of the Project, and as indicated in the RDEIR, the school parking lot and driveway would be reconfigured to address existing deficiencies and allow for a larger parking lot capacity and more efficient drop-off and pick-up operations. Traffic conditions at the school site and adjoining intersection during the morning arrival and afternoon dismissal periods were observed and analyzed as indicated in the RDEIR. Based on the observed conditions, a conceptual preliminary suggestion of school site access and parking lot improvements were provided in RDEIR Exhibit 2-6 (Project Description) and 3.12-12 (Transportation and Traffic). As noted in the RDEIR, all school circulation improvements would be reviewed and accepted by the Project applicant, the County, and SRVUSD prior to implementation.

Regarding pedestrian access, the Project includes the provision of two direct pedestrian access points to the adjacent school site (see RDEIR, Section 2, Project Description, Exhibit 2-6). The provision of a secondary emergency vehicle access point for the school site could potentially be provided as well. These access points would be reviewed and accepted by the Project applicant, the County, and SRVUSD prior to implementation.

For both vehicular and pedestrian access from the Project Site to the school, safety concerns would be addressed during site plan review and finalization in coordination with the Project applicant, County, and SRVUSD.

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June 6, 2016

3:30 session

Zoning Administrator's Meeting

Comments on the DEIR GP07-0009 RZ09-3212 SD10-9280 DP10-3008

ZA: Thank you for your comments……Juan Pablo Galvan I have just one more speaker card, anyone wishes to comment, please fill out one of these speaker cards.

Juan Pablo:

Good afternoon, my name is Juan Pablo Galvan Land Use manager for Save Mt. Diablo. In 1971 there was just one park on the mountain, hat was less than 7,000 acres. Today there are more than 50 parks and preserves around the mountain that total more than 110,000 acres. We had a great deal to do with that, us and our allies. We have been involved in the Tassajara Valley for decades, for example we helped stop thousands of housing units in the 4,900 Tassajara Valley owner/property association project in the late 90's. and after that there was the new found project which proposed approximately 190 housing units over more than 700 acres of this current project site that we are discussing right now. As such, we are very pleased that the applicant has decided to significantly drastically one can say, scale back their proposal to 30 acre exception to the ULL. And with that comes a very high level of public benefit in the form of 92% of the 771 acre project site being devoted to parks and open space and recreation and also importantly having contingency for having eventual public recreation use in the form of trails. Specifically in regards to the EIR, we can say that the biological details in the report are comprehensive and are satisfied that appropriate levels of mitigation impact which includes both the development footprint and grading have been accounted for. We can say that California legged frog, California Tiger Salamander mitigation ratios are 3-1 are satisfactory and that acreage set aside would be subsumed in the larger area of the project set aside for public recreation and open space and habitat. And overall we have not taken a position as yet on the project but we are discussing it and would like to recognize that even though we advocated other venues use for elimination for the 30 acre ULL exception at the County level and with other entities. We recognize it's currently legal and that this project offers a very high public benefit component. Thank you very much.

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Save Mt. Diablo (SMD) June 6, 2016

The following comments were provided orally at the June 6, 2016, Contra Costa County Zoning Administrator's Meeting.

Response to SMD-1

The commenter provided introductory information and expressed appreciation for the reduced Project size as compared to previous proposals for the Project Site, as well as the Project's commitment to permanently preserve land through conveyance in fee of 727 acres of land to EBRPD for substantial open space, park and recreational and other non-urban uses. No response is necessary.

Response to SMD-2

The commenter stated that the biological details provided in the Draft EIR are comprehensive. It was expressed that the identified mitigation, including the California tiger salamander mitigation ratio, was satisfactory. No response is necessary.

Response to SMD-3

The commenter stated that Save Mt. Diablo has not taken a position on the Project, but that its 30-acre ULL adjustment is consistent with regulations and that the project offers a very high public benefit component. No response is necessary.

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June 6, 2016

3:30 session

Zoning Administrator's Meeting

Comments on the DEIR GP07-0009 RZ09-3212 SD10-9280 DP10-3008

ZA: Thank you. The last speaker card is Richard and I can't read your last name.

Richard Fisher:

Good afternoon my name is Richard Fisher. I live at 5250 Old School Road, Pleasanton address unincorporated Contra Costa County. I lived there since January 1977. I will comment on specifically on the EIR. But I just want to ask maybe two tutorials questions. Why would the County even consider this development, which is outside the Urban Limit area and Part 2, Wouldn't this give another developer the same game plan, the nose of the camel is underneath the tent, buy land, donate a portion back, build it and the Urban Limit keeps moving and soon we have Dublin North. I don't' want that. My point is that this development would diminish the watershed that replenishes the wells of the people living along the roads of Finley Road, Old School Road, Joseph Lane and Country Lane. Approximately 75 homeowners that depend on that watershed, some of which wells have gone dry now. We have tried many times to access East Bay MUD and be paying customers and yet they have turned us down for at least 2 reasons, we are outside the Urban Limit Area and were outside their service area. And now in the environmental report, impact report, they propose the developer to propose to deliver water from another water district, but delivered through East Bay MUD pipes. They are working together but yet they still turn us down. If you go forward with this project, and I don't know whether it will go on or be approved, the developer should be required to provide a water source at the point where the northern site meets Finley Road, about 200 feet from my house. This will allow people to access it with their water trailers and fill up their water storage tanks if their wells have gone dry. This should be a minimum commitment, that if you're going to make this development, at least provide water to people that develop effects, because water shed is going to be eliminated in that area. Based on the 30 acres that are going to be roads and homes. Or at a minimum in the development allow access to the water hydrants. So again where our wells have gone dry we can do it and pay for it. We are not asking for a handout, we are asking to have access to water. When I hear stories of people who got killed in the old west over water, they were never killed gold. It comes down and makes a big impact to us right now. So those are my comments, but I do want to deliver, if possible a list to your Clerk of people that live in the area known as the Old School Road Maintenance Association Services, Old School Road Services, Joseph Lane we maintain and repair the road, but numerous people did not get any mailing. I'd like to have these people included on the list on future mailings. Thank you.

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ZA: Okay thank you for your comments. Again that was the last speaker card is there anyone else wishes to make a comment. And again this is on the Draft Environmental Impact Report for the Tassajara Parks project. Anyone else? Please fill out a speaker card or come up to the podium there. Okay. I see no one. I think that's it for this afternoon. Thank you so much for providing your comments this afternoon. We really appreciate that. The County will be preparing a response to all the comments that we received this afternoon. And that document also will be available to the public. Again as I said earlier, the last day to provide any written comments is July 18th. So you still have time to submit your comments. So if you want to submit any additional comments, written comments, please do so by July 18th by 5:00 p.m. If you have any questions, we have a project planner here, John Oborne who is sitting in the back there if you have a quick question regarding the project. Thank you that concludes the 3:30 hearing of the Zoning Administrator.

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Richard Fisher (FISHER) June 6, 2016

The following comments were provided orally at the June 6, 2016 Contra Costa County Zoning Administrator's Meeting.

Response to FISHER-1
The County's Department of Conservation and Development is required to consider any project that is submitted in full compliance with all applicable and necessary application standards.

The Project, if approved, would expand the ULL by 30 acres. Such expansion would only occur as allowed by Contra Costa County Ordinance Code Section 82-1, which strictly limits the instances in which the ULL can be adjusted. Other potential expansions of the ULL, regardless of the proposed Project's approval or denial, would similarly be limited by the regulations set forth in County Ordinance Code Section 82-1 and other applicable laws and regulations. See also Master Response: Agricultural Preservation Agreement.

Response to FISHER-2
As indicated by the commenter, water provided to the Project Site would be via EBMUD infrastructure, subject to approval by the EBMUD Board of Directors. EBMUD does not utilize groundwater in its potable water supplies and no on-site wells would be implemented as part of the project. As stated in Response to BURT-7, the Project would not be expected to result in significant impacts to groundwater flow in the Project vicinity. Conversion of a relatively small amount of land within an approximately 771-acre Project Site would not be expected to result in significant changes to groundwater percolation. Furthermore, establishment of the proposed retention basin would serve to enhance percolation of water into underlying soils and aquifers on-site. Regarding the request for the Project to provide a water source at the point where the Northern Site meets Finley Road, for use by surrounding property owners to fill up their water storage tanks, the Project does not include creation of a water source at this location, but rather merely needs to obtain water to serve the Project.

Response to FISHER-3
The commenter provided a list of residents in the Project vicinity and requested that they be included in future mailing lists for the Project. The comment is noted.

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