



**Friends of the  
Desert Mountains**

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July 20, 2011

County of Riverside  
Board of Supervisors  
4080 Lemon Street  
Riverside, CA 92502-1409

Re: Travertine Point Specific Plan Final EIR

Dear Supervisors:

The Friends of the Desert Mountains (FODM) is a California non-profit corporation that acquires land in the Coachella Valley area to protect its biological, cultural, scenic, and recreational resources. Our basic policy is not to comment on land use projects except when land we have acquired may be impacted. In this instance, the Friends acquired lands in Section 25, T8S, R8E by the project site and in Section 27 in the same vicinity. In addition, we have assisted state and federal agencies in the acquisition of more than 6,600 acres in the immediate area, with more in progress. These lands were acquired to protect the extraordinary cultural, archeological, geological, biological and scenic resources of the ancient Lake Cahuilla Shoreline and its surrounding historic landscapes, and reflect an investment of many millions of dollars.

During the course of the Travertine Point Project's EIR review process, the Friends submitted comments during the original NOP period, comment letters during both public comment periods for the Draft EIR and revised DEIR, as well as attended the May 25<sup>th</sup> Planning Commission meeting regarding the project. At that meeting we requested that the public hearing be kept open until the next Commission meeting to afford us the opportunity to review the FEIR which had just been released approximately 10 days prior to the meeting. Although the Commission did continue the item to its next meeting, it closed the public hearing, so we were unable to present comments on the FEIR to the Commission.

We have now reviewed the Final EIR for the proposed Travertine Point Specific Plan, and, unfortunately, the County has failed to address our ongoing concerns regarding the proposed project design and the impact it will have on the significant cultural and natural resources west of the proposed project area. The Friends believes that the EIR provides inadequate analysis of project impacts to offsite cultural, geologic, and other resources; inadequate mitigation for the impacts to offsite cultural, geologic, and other resources; insufficient support for the conclusion that mitigation measures that would reduce the level of impacts are infeasible; and for the conclusion that findings of overriding considerations are warranted. Specifically, our comments are as follows:



**The EIR provides inadequate analysis of the project impacts to offsite cultural, geologic, and other resources.**

- We are unable to find any indication in the documents as to what specific efforts were made to research, identify, and assess the impacts to the offsite cultural, geological, and biological resources. We believe, therefore, that the County failed to meet the CEQA requirement of adequately identifying project impacts, including impacts to offsite resources.
- We did note the statement in the FEIR in section 6.5, Cultural Resources, that *"implementation of the proposed project would increase the population and use of the Specific Plan area. The proximity of residential areas and the resulting increased use of open space areas near identified sites containing cultural resources could result in significant impacts to cultural resources sites, including illicit collection of cultural artifacts and vandalism."* This, however, is a theoretical statement and we could not find an indication of what actual research or analysis had been undertaken to identify the resources that could be impacted. The FEIR does reference Impact 6.5.7.1, stating *"...the project site does contain a number of features that meet some of the basic criteria (age or association) to be considered a historical resource. There are no local or national architectural historical resources within a 0.5-mile radius of the project site. Excepting the water conveyance-related features documented as AE-TRV-1H, no other historical sites of significance were identified in the site surveys completed in 2008. As the site was not surveyed 100 percent, there may be undiscovered historical sites that have not been previously documented. However, because the surveys completed in 2008 are considered representative, the potential for undiscovered historical sites is low."* This statement is troubling in two respects. First, it implies that there are no significant cultural and related resources adjacent to the project site. To the contrary, while the cultural, geologic, and historic resources associated with the adjacent Lake Cahuilla shoreline area are not currently listed in the National Register of Historic Places or listed as a National Historic Landmark, it is clear from the attached letter from Russell Kaldenberg, Exhibit A, that the adjacent area is of great significance. The EIR's failure to recognize this renders it inadequate in its analysis and assessment of impacts to offsite cultural and related resources. Second, the statement indicates that not even the project site was completely surveyed. This clearly indicates that the potential impacts have not been adequately assessed; thus, adequate mitigation measures could not be identified. Again, the CEQA document is flawed and inadequate.
- We have also attached as Exhibits B and C two articles illustrating the types of impacts that are likely to occur from the adjacency of an urban project of this huge scale.

**The EIR provides inadequate mitigation for the impacts to offsite cultural, geologic, and other resources.**

- The conversion of the project site from agriculture to urban development will have a significant adverse impact on offsite cultural and natural resources because of the likelihood of project residents' trespassing onto the adjacent vacant lands. We note that the FEIR, does conclude that these impacts will be significant, notwithstanding the lack of analysis and recognition of the

significance of the offsite resources as described above. We concur that the impacts will be significant; however, we believe the EIR fails to identify adequate mitigation measures; rather, the EIR identifies certain measures that are, in fact, not mitigation measures at all; and dismisses other mitigation measures as infeasible.

- The EIR suggests that siting a drainage channel along the western boundary of the project will act as an adequate buffer; however, this is mere assertion with no supporting evidence or documentation provided to demonstrate that such a narrow buffer – providing no real visual separation between medium high and medium density residential areas and the sensitive offsite open space areas – would be effective. The drainage channel on the western edge of the project boundary proposed as a buffer to the open space to the west is woefully inadequate as a means to restrict and deter access to the sensitive cultural, geological, and biological sites immediately west of the project, especially since it incorporates hiking and biking trails, ultimately bringing residents within visual contact with and access to the sensitive areas. We specifically commented in response to the DEIR that no trails should be sited along the western boundary of the project, and yet trails are specifically proposed in this area. That the trails are on the inner rather than the outer edge of the drainage channel does not negate the effect they will have of enticing users to venture across the visually insignificant barrier of the channel to trespass onto the sensitive offsite areas.
- Mitigation measures 6.16-4 through 6.16-6 in Section 6.16, Public Services – Parks and Recreation (see Subsection 6.16.7.2), provide measures that would, *“prohibit the use of motorized vehicles on trails that connect to Anza Borrego Desert State Park (ABDSP) or the Santa Rosa and San Jacinto Mountains (SRSJM) National Monument... and require that entities that provide and maintain on-site trails provide signage and educational materials that describe appropriate and prohibited activities at all trailheads leading to ABDSP or the SRSJM National Monument.”* Regarding the above referenced trails and trail heads that pertain to the National Monument, this is a mitigation measure based on a false assumption. In fact, there are no established trails for public access that are near the project site that connect to the National Monument. Under the MSHCP, no future trails are planned in this area at least until after the completion of a research component of the MSHCP regarding the effects of recreation on Peninsular bighorn sheep is completed. The proposed mitigation measure is irrelevant and actually counter-productive at this time.
- With respect to the “Wall and Fence Concept” described in the Final EIR as, *“view fences [that] would be developed along the western side of the proposed project separating the residential uses from drainage corridors and the adjacent lands, these fences would provide some deterrence to reduce human intrusion onto adjacent land”*, because the draft EIR and the Final EIR lack any diagrams or clear descriptions of what the “Wall and Fence Concept Plan” will look like, what materials it will be constructed out of, how tall, and where exactly it will be located along the western perimeter, the public does not have a clear idea of how, or if, it will help deter human intrusion onto adjacent lands. Thus, such a vague fencing plan cannot be accepted as an adequate mitigation measure.

- The Friends believes that under the County General Plan Land Use Policies a non-urbanized buffer must be included in the project to protect the adjacent open space areas. As stated in the Land Use Element, *"It is the intent of the General Plan that new and encroaching uses shall provide a mitigation or buffer between existing uses where potential adverse impacts could occur."* The General Plan also states under "Open Space, Habitat & Natural Resource Preservation" that *"Riverside County is known for its extraordinary environmental setting, which provides recreational, ecological, and scenic value. This open space, found in remote regions of the County as well as within Community Development areas, is one of the primary defining aspects of the County's livability and character. In some instances, it is this open space that provides the separations between communities, helping to enhance the distinctiveness of communities in the County."* The RCIP Vision states: *"We value the unusually rich and diverse natural environment with which we are blessed and are committed to maintaining sufficient areas of natural open space to afford the human experience of natural environments as well as sustaining the permanent viability of the unique landforms and ecosystems that define this environment."* The Friends believes that if the County is serious about implementing its vision and its land use policies directed at protecting sensitive resource areas, it will require an adequate buffer for this project.
- The Friends believes that an adequate buffer would be anywhere from ¼ mile to ½ mile. Significantly, with respect to the project's impacts to Anza-Borrego Desert State Park, the EIR provides that *"While the project would result in urban development adjacent to the state park, development would be mostly buffered from the park by a large expanse of land designated Open Space (Conservation) in the land use plan. The project would provide a buffer along the site's western boundary to ensure that the park is not affected by project development."* Indeed, the buffer along most of the edge of the State Park is well over ½ mile wide, such that the acres of project open space in the Imperial County portion of the project is 980 acres, which is 37% of the total project acreage in Imperial County. By contrast, the drain age channel buffer separating the medium and medium high density residential areas of the project from the sensitive Lake Cahuilla shoreline area resources in Riverside County is a total of only 160 acres, or a mere 4% of the project acreage in Riverside County. The maps in attached Exhibits D and E show what a ½ mile and a ¼ mile buffer, respectively, would look like. This would result in somewhere between 16% and 29% of the portion of the project in Riverside County being in open space. By siting various appropriate public facilities in the easternmost portion of this buffer area, as well as perhaps a regional commercial node, and by shifting some of the open space conservation area from Imperial County to Riverside County, the Friends believes the projects offsite impacts would receive a significant mitigation benefit, as is appropriate and necessary in light of the extraordinary significance of the offsite cultural, geologic, and related resources immediately west of the project. The buffer would also require adequate fencing to prohibit or deter residents from accessing the area to the west of the project site, and would exclude any trails that would bring people within proximity of the sensitive offsite areas to the west.
- In addition to an adequate buffer, the project needs to provide an adequate funding source to ensure that the offsite cultural resources are adequately monitored and managed to prevent impacts from incursions into the area by

project residents. Because the project is the source of the impacts to these extremely sensitive resources, it is the project's responsibility to avoid these impacts or mitigate them to a point that makes them less than significant. The project, therefore, should provide a monitoring and management endowment or an ongoing annual funding source to provide for adequate monitoring and management. The Friends also wants to make it clear that the Friends seeks no funding from the project whatsoever. The appropriate monitoring and management entity for protecting the offsite cultural resources should likely be some combination of BLM, CDFG, the County, State Parks, and the Torres Martinez Tribe, as these entities either own land on which the resources occur or have other relevant responsibilities. The determination of the appropriate amount of the endowment ongoing annual contribution should be made after completion of a cultural resources management plan. Utilizing grant funding sources, including a grant from Riverside County, the Friends initiated a management planning process for the Lake Cahuilla shoreline area in Riverside County, but not at the level of detail necessary to specifically address the management needs of the area resulting from the impacts of this project. A more detailed study is necessary.

- The assertion in the FEIR that paying the Coachella Valley MSHCP fees fulfills the project's obligation to mitigate the impacts to the offsite *cultural resources* is wholly erroneous. Under the terms of the Incidental Take Permits and the MSHCP itself, the mitigation fees can only be used to manage lands owned by the Coachella Valley Conservation Commission (CVCC) to protect their biological resource values. Not only does CVCC own no lands west of the project site to manage, it would be a Permit violation to use the mitigation fees to develop and implement a cultural resource management plan. Even were MSHCP fees available to manage the area's biological resources, the notion that somehow cultural resources could be adequately managed incidental to the management of biological resources cannot be taken seriously. Only a focused management plan for cultural resources backed by adequate dedicated management resources would suffice. Payment of the MSHCP is not a mitigation measure for impacts to cultural resources.

**The Friends believes that the EIR, staff report, and other documents provide insufficient support for the conclusion that mitigation measures which would reduce the level of impacts are infeasible.**

- The EIR indicates that 24 hour patrol of sensitive sites is financially infeasible and thus no mitigation can occur. This is a false choice comprised of two extremes: round the clock monitoring and patrol 365 days a year on the one hand and no patrol and monitoring on the other. Certainly, there is a huge continuum of other possible patrol and monitoring regimes in between, but the EIR failed to consider a reasonable combination of buffer, fencing, education, and patrols organized and scheduled to have a consistent, but not necessarily constant, presence in the area.
- The EIR and staff report also accept at face value the Travertine Point 2010 Financial Feasibility Analysis assertion that providing a meaningful buffer would

make the entire project financially infeasible. Did the County obtain any independent review of the Analysis or require that the Analysis consider different project designs and land use mixes, or direct a consultant to design a project with a buffer that would be financially feasible? Absent such an approach, an Analysis that simply concludes that only the project as proposed is financially feasible is suspect. If that is indeed the case, it suggests that perhaps the underlying problem is that the project is too much of a leapfrog development that requires the extension of far too much infrastructure or the development of too much new infrastructure to be viable. Areas of such extraordinary significance as the area to the west of the project site should not be sacrificed to make the project pencil out.

**Findings of overriding considerations for this project are unwarranted.**

- The conclusion in the EIR that impacts to the offsite cultural resources are significant and that no mitigation measures are feasible results in a requirement for findings of overriding considerations that would justify the significant adverse impacts to these irreplaceable and nationally significant resources associated with ancient Lake Cahuilla and the human use thereof. The Friends notes, however, that the County is under no obligation to make such findings, and should, instead, require appropriate project design changes and mitigation measures such as those proposed by the Friends to reduce the level of impacts to less than significant.

Sincerely,



Margaret Park  
President



## *Exhibit A*

June 21, 2011

Bill Havert  
Property Committee, Chair  
Friends of the Desert Mountains  
P.O. Box 821  
Palm Desert, CA 92261

Subject: Cultural Importance of the Lake Cahuilla Shoreline in Riverside County

Dear Mr. Havert:

On behalf of ASM PARC, I am pleased to provide you with comments on the significance of the Lake Cahuilla shoreline. ASM PARC is developing a management plan for the Friends of the Desert Mountains on the shoreline as it known in Riverside County. We are also participating in a similar project in Baja California.

The Lake Cahuilla Shoreline is a visible vestige of the ancient formation of the Colorado River Delta, dating to some five million years ago, that separated the Salton Trough from the Gulf of California and created the largest freshwater lake in the desert southwest. Nowhere in the United States is this displayed so prevalently as along the eastern edges of the Santa Rosa Mountains, where the casual traveler driving along State Highway 86 can see the visible imprint of the shoreline left on the mountainside by the tufa-encrusted scars. This imprint is associated with not only the scientific resource that has been the subject of studies for nearly a century, but the cultural resources related to the late Holocene-era cultural history and traditions of the Cahuilla people, their neighbors, and precursors. Nowhere else within the United States is there such a rich tradition associated with the pluvial history and changing environment of the nation. In the rest of the west, the desiccation of the lakes occurred many thousands of years in the past and there are few oral histories associated with the lakes. This, of course, is not the case with Lake Cahuilla, as the Cahuilla remember that just a few generations ago, the lake was used by their peoples for habitation and resource utilization.

The existing archaeological record documents that for the past 3,000 years, and probably throughout the 10,000-year prehistory of the region, Native peoples used the lake's resources as a source of sustenance, including for fishing, birding, and freshwater clamming. The evidence of this activity can be seen throughout the area bounded by the shoreline; within a study area of five miles from the shoreline, archaeological resources include: aboriginal trails leading from the old shore into sites within the mountains; village sites with still recognizable house pits where people lived and left the remains of their existence; and lines of ingenious fish traps that display a detailed understanding of the natural history of native fish to harvest the lake's bounty. Ceramic pot drops (areas of broken prehistoric pottery), lithic procurement areas (places where rocks were

June 21, 2011  
Bill Havert  
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obtained to make stone tools), lithic scatters (areas where stone tools were made or where rock was prospected and left behind) and rock art sites (both petroglyphs and pictographs) are scattered throughout the shoreline area. Prehistoric cemeteries are also known to exist within the region. Stories are known about the relationship of the Cahuilla to the archaeological sites and the importance of keeping the sites from being disturbed.

Presently, with urban populations expanding and unimpeded access to the sites, this resource is in danger of impacts by land use decisions. The time has come to look at the Lake Cahuilla shoreline as a unit and determine a manner in which it can be preserved for cultural and scientific purposes. ASM PARC has studied the area for decades and knows of its importance to science and to the native peoples, not only in Riverside County, but in Imperial County and at its southern reach in Baja California Norte. We highly recommend that the shoreline remain as undeveloped as possible, with appropriate mitigation such as can be devised to preserve these important resources along the Santa Rosa Mountains interface. There are many methods available to reduce or eliminate impacts to these types of resources; however, none are foolproof and any mitigation measure has risks associated with its implementation. Increased access to the fragile resources known and predicted to exist along the shoreline present the greatest risk to their preservation.

It is my recommendation that any approved development needs to limit uncontrolled access to the Lake Cahuilla shoreline to the maximum extent legally feasible by using restrictive fencing, wide buffers, managed and well documented conservation easements, developed proactive educational programs, and patrols (such as law enforcement and citizen monitoring).

I have little doubt that the sites are eligible for inclusion in the National Register of Historic Places as places of importance to the local public, as well as for science and, the shoreline complex is probably eligible for designation as a National Historic Landmark.

Please do not hesitate to contact us should you need additional information.

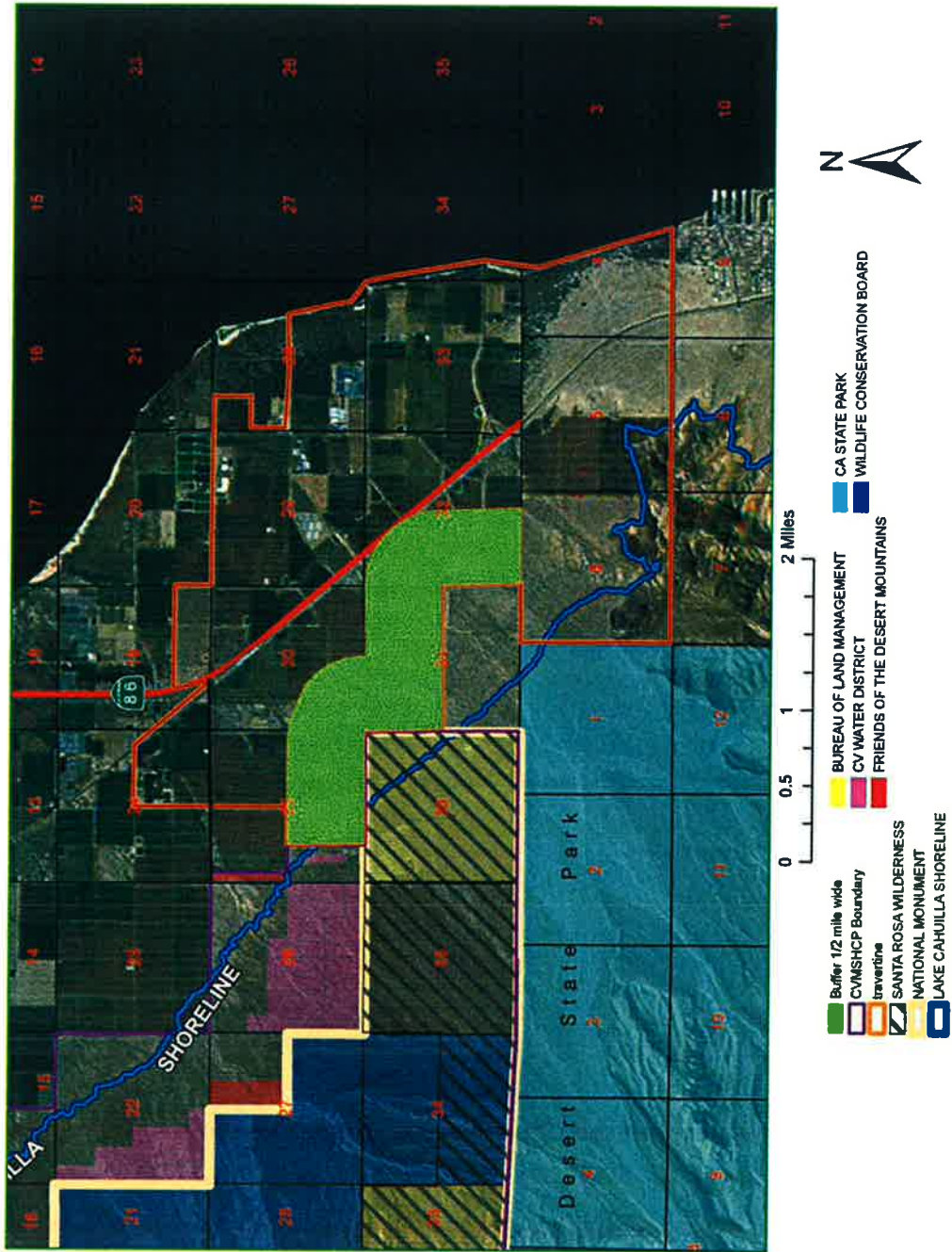
Sincerely



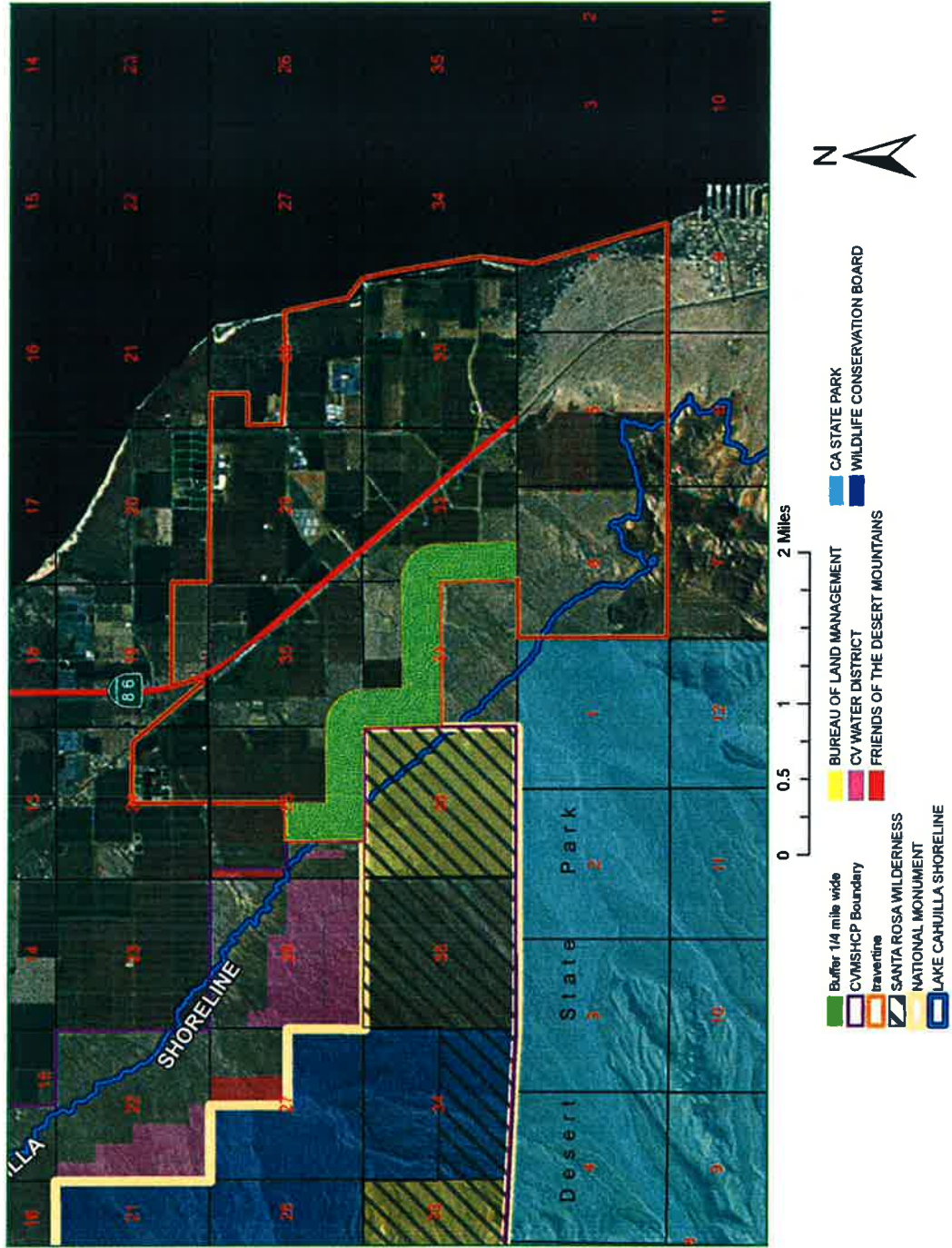
Russell L. Kaldenberg, M.A., RPA  
President

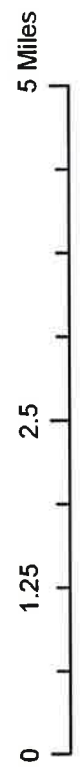
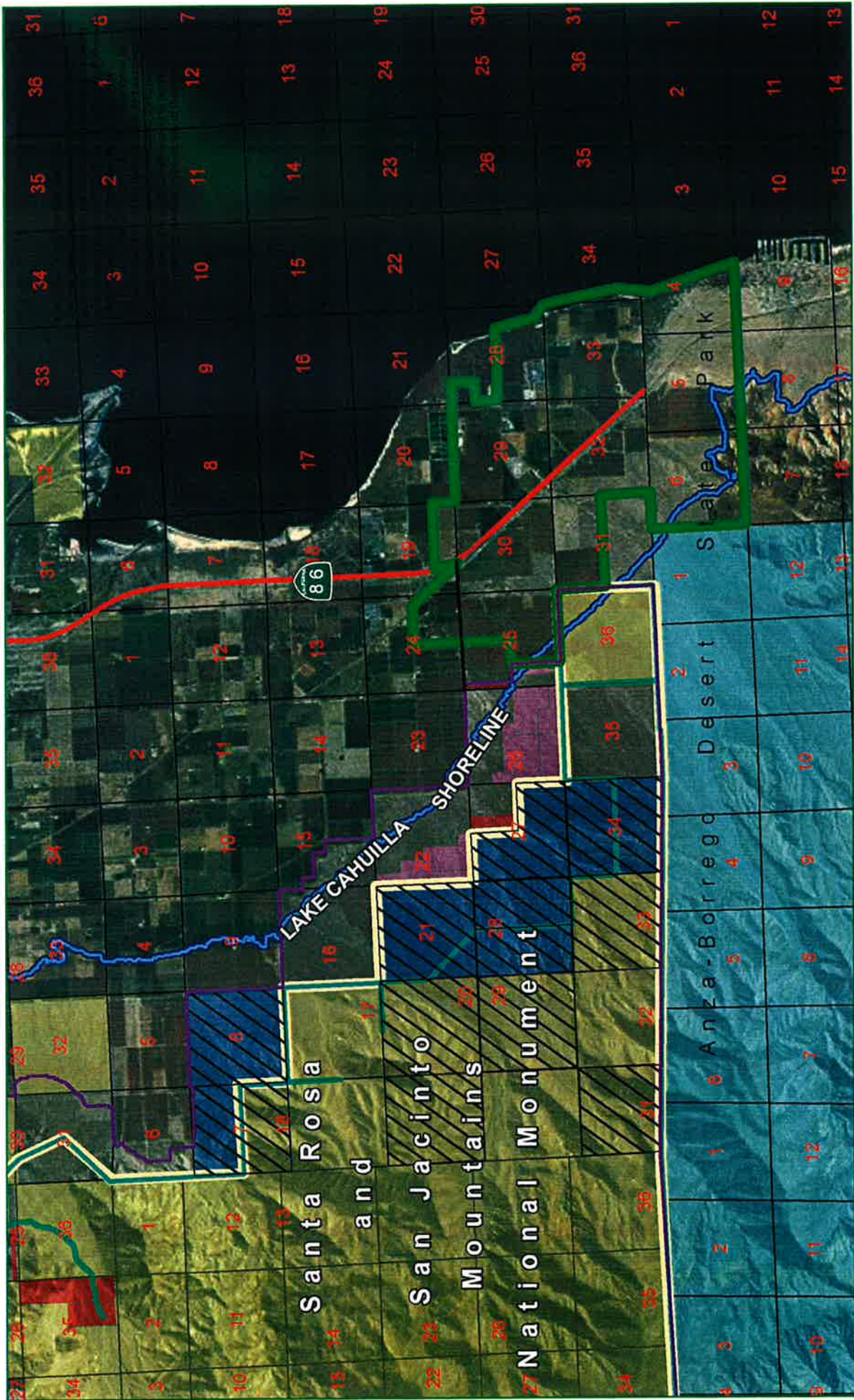












Exhibit D – 1/2 mile buffer



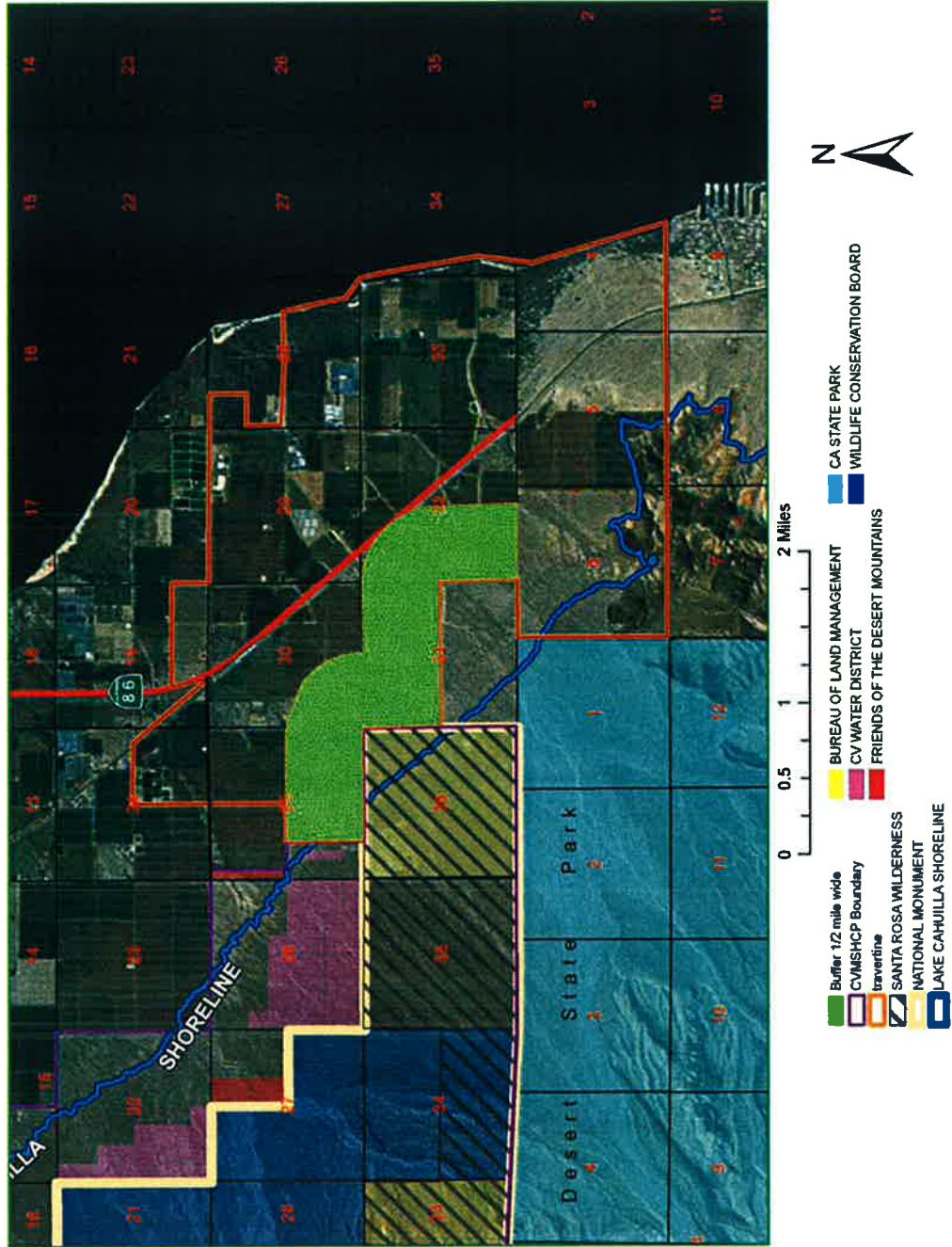
**Exhibit E – 1/4 mile buffer**



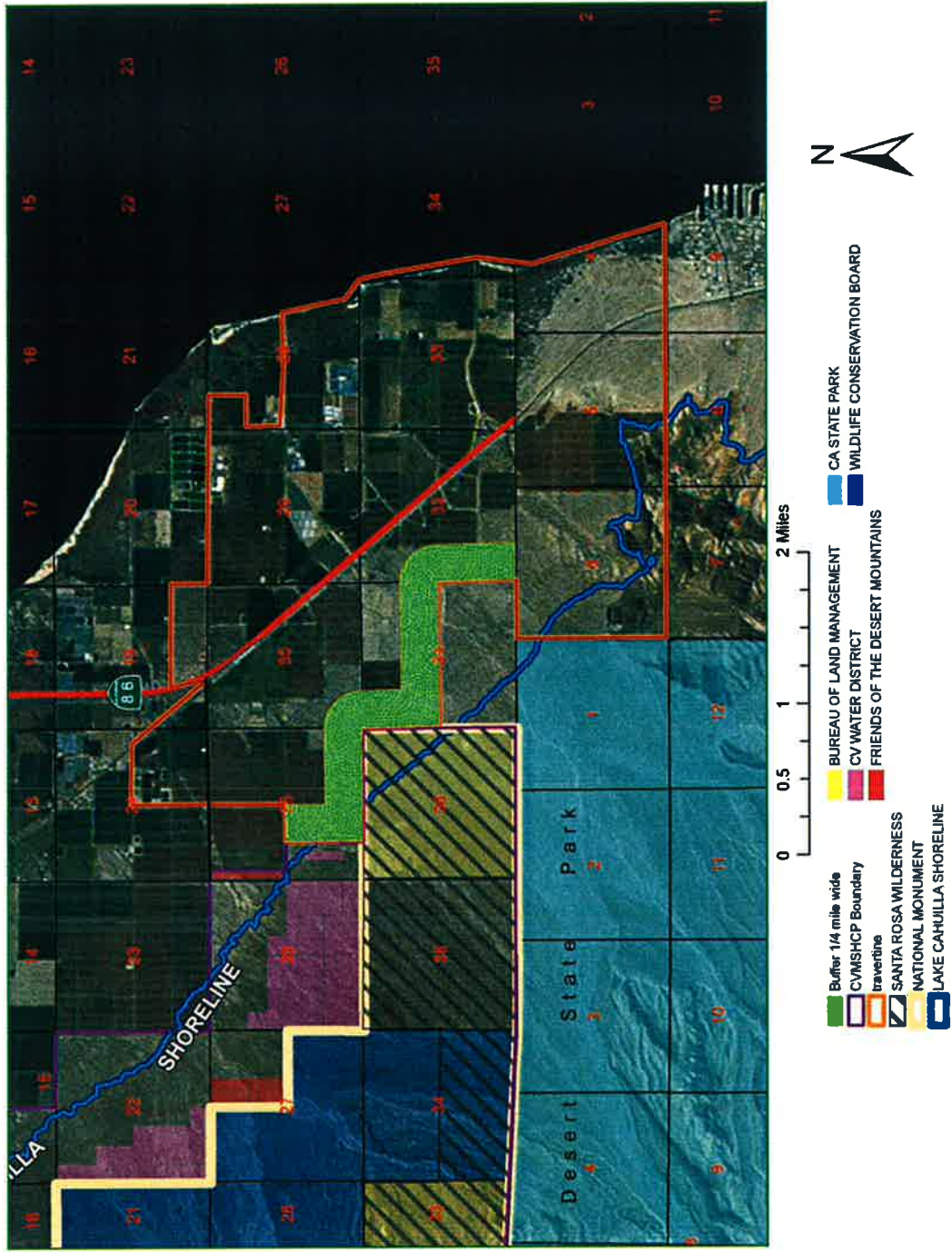


-  CVMSHCP Boundary
-  Proposed Travertine Point Project Acquisitions 2003-2010
-  Santa Rosa Wilderness
-  Bureau of Land Management
-  National Monument
-  CA State Park
-  Wildlife Conservation Board
-  Lake Cahuilla Shoreline
-  CV Water District
-  Friends of the Desert Mountains

**Exhibit D – 1/2 mile buffer**



**Exhibit E – 1/4 mile buffer**



August 16, 2011

Travertine Point  
Riverside County Board of Supervisors

Good afternoon.

My name is John Purcell, I am a lifelong resident of the Coachella Valley. I am a former Board Officer of the Friends of the Desert Mountains and of the Friends of the Indian Canyons. I appreciate the opportunity to speak to the Travertine Point Development and to its potential impacts on the cultural and biological resources of our Valley home.

My earliest memories are of the small but famous village of Palm Springs of the 1950's. Along with many of us in this room, I have watched the Valley grow and prosper due in large part to our climate, our natural resources and our open spaces. Simply put, we have developed and this development has helped to fund our infrastructure, our roads, our schools, our police and fire services.

There is no doubt that growth comes at a cost and we have certainly paid our tolls with the losses of our mid-Valley sand dunes once called the "Sand Sea", and our once expansive cultural and biological habitats in the alluvial fans that stretched out from the dozens of snow

and spring fed canyons in the San Jacinto and Santa Rosa Mountains.

I do not come here today to ask that we stop development. I believe that that would be both naive and fruitless. But I do come to express one lesson that I have learned over the last six decades: development and the opportunity to make money are transitory – they come and go. We risk some money only in the hope to make more money often at the expense of the very lands we disturb.

Travertine Point is situated across some of our last and most precious gateways into the Santa Rosa Wilderness. It has the potential to be home to 37,000 people who will undoubtedly want to explore into the mountains. The cultural and biological resources that will be exposed and impacted are both finite and irreplaceable. Unlike profits that can be recouped, these treasures, once gone, are gone forever.

Enough has not been done to evaluate the resources that will border Travertine Point. What we do know is that area contains some of the best rock art sites in the entire Valley. What we also know from experience is that exposing cultural sites to the public without strong protections almost always leads to desecration. Most importantly, we don't know what we don't know.

The Board of Supervisors has the power to require that greater focus be made on those aspects of the Travertine Point project that can never be replaced. We can make more money, we can move onto other sites and develop more homes and neighborhoods but we can never recover cultural or biological resources once they've been destroyed whether directly or indirectly as a result of our actions.

I plead with the Board not to stop the development but to require that the developers return to this Board with a much stronger, fully researched and fully enforceable and funded plan to protect its own borders and thereby help to preserve one of the Valley's last great treasures.

Thank you for your time.

John Purcell

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33488 Lansford Street  
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August 16, 2011

Board of Supervisors  
County of Riverside  
4080 Lemon Street  
Riverside, CA 92501

Re: Specific Plan No. 375, GPA 910, CZ 7623, EIR 514

Dear Supervisors:

The area just west of the project is one of the most important archaeological sites in Riverside County, and because of the intact portions of the lakebed and shoreline of ancient Lake Cahuilla, the area is also of great geologic and natural history importance. Attached to the Friends of the Desert Mountains' letter to you, was a letter from an archaeologist familiar with the site attesting to the uniqueness and tremendous importance of the area. As the guardians of the County's natural and cultural resources, protecting this extraordinary area should be a high priority for you. If any of you would like to see some of these resources first hand, I'd be happy to take you on a tour.

Most of the land on which these resources occur has now been acquired by a combination of state and federal agencies and non-profit organizations, so the land will never be developed; however, these entities do not have the resources to prevent indirect impacts to the resources from adjacent urban development. That protection is the responsibility of the development proponent causing the impacts and of the agency making the land use decisions about whether or not to approve the project.

The EIR for this development project concludes that the project will have significant adverse impacts to these offsite resources. So, two facts are not in dispute. One is that the area is of tremendous importance in terms of natural, cultural, and archeological resources. Two is that this project will have a significant adverse impact on those resources.

There is, however, one thing that should be in dispute, and that is the EIR's conclusion that the significant adverse impacts are unavoidable and cannot be mitigated to a level of insignificance. As a result of that conclusion in the EIR, the Board is being asked to make the decision to accept and approve significant adverse impacts to, and perhaps the destruction of, these quite extraordinary resources. That is the proposal on which you are asked to act today.

The Friends' has suggested that a combination of an adequate land use buffer in the project combined with funding to provide for management resources could protect the offsite resources or certainly minimize the potential for impacts, but these proposals have been rejected by staff, the proponent, and the Planning Commission. Such a buffer, however, would certainly be consistent with the Eastern Coachella Valley Area Plan policy about new communities that states, "At least 50% of the proposed community must be devoted to open space and recreation." For the portion of the project in Riverside

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COUNTY OF RIVERSIDE CALIFORNIA

County, the current amount of open space and recreation is well under 10%, perhaps under 5%; this is not consistent with the County's policy.

One choice the Board has is to deny the project for a variety of reasons. If the Board is not inclined to do that, I would strongly urge the Board to take no action today, but rather to continue the hearing and direct staff to form a working group including the applicant, the County archaeologist, the Torres Martinez Desert Cahuilla Indians, the California Department of Parks and Recreation, the Bureau of Land Management, the Friends of the Desert Mountains, the Coachella Valley Mountains Conservancy, and the California Department of Fish and Game to develop a plan to adequately mitigate the impacts from this project. You can then consider incorporating that plan in the Final EIR and your decision on the project.

The resources at risk reflect millennia of history and natural and cultural processes; surely a decision on this project can wait a short time to ensure that these resources are protected in perpetuity.

Sincerely,



Bill Havert

# ENDANGERED HABITATS LEAGUE

DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE



**BY FACSIMILE AND ELECTRONIC MAIL**

August 15, 2011

The Hon. Bob Buster, Chairman  
Board of Supervisors  
County of Riverside  
4080 Lemon St., 12<sup>th</sup> Floor  
Riverside, CA 92501

**RE: Item 16.3: Specific Plan No. 375, GPA No. 910 (Hearing Date: Aug. 16, 2011)**

Dear Chairman Buster and Members of the Board:

Before the Board is a gigantic proposed “new town” (Travertine Point) of over 16,000 units located (for the time being) on the shore of the Salton Sea. The Endangered Habitats League (EHL) is deeply concerned over this proposal, and urges that the Board defer consideration *at this juncture* on the following grounds:

- A potential new city of this magnitude is of such importance that it should only be considered at the time of a *comprehensive* update to the General Plan. A piecemeal approval is inappropriate and deprives the public of an opportunity to place this and other proposals within a broader vision or context. A project of this scale has the potential to prejudice the consideration of alternative visions for the long-term future of Riverside County, a decision that is best made as part of a comprehensive planning process. For example, early approval of 16,000 housing units at this remote location may create burdens on infrastructure—particularly water supply and the supply of regional transportation capacity—that could preclude other opportunities for development in more efficient, sustainable locations. These trade-offs can only be considered on a regional scale.
- The current General Plan already suffers from severe over-capacity of housing. In other words, given anticipated population growth, it would take many decades for the other major developments your Board has already approved to be built out. There is no demographic need for this project. By worsening the over-capacity problem, the project further stretches limited infrastructure and service dollars, and scatters such investments in an inefficient and uncoordinated manner. The promised job-housing balance is illusory. Staff cannot provide a single example in the entire country where a new town (other than a “company town” tied to an

industry like mining) that has met the ambitious internal trip capture assumptions upon which the rosy traffic, air quality and GHG emissions analyses rest. While it is true that the Project sets high standards for the phasing of housing and non-residential development, Riverside County has historically lagged in the rate of development of the latter. Nothing in the documentation in support of this project supports the conclusion that the Project will reverse this trend. To the contrary, non-residential development in the Coachella Valley has (and will continue) to concentrate along the more affluent SR 111 Corridor. Houses at Travertine Point will likely be occupied by service employees for these areas who are priced out of the more expensive local housing stock, resulting in long average trips lengths and consequent traffic, air quality and greenhouse gas emissions. Inevitably, the project applicant will come back to your Board with further specific plan amendments when unprecedented jobs/housing phasing standards are not met. It is better to make planning decisions based on realistic, empirically supported assumptions as part of a comprehensive review of where best to locate future housing as part of the comprehensive General Plan review.

- The Project depends for its success on the successful restoration of the Salton Sea, an artificial water body that faces a highly challenging and dubious future under the very best of circumstances. This “sea” is evaporating at a rate of roughly 450 million gallons a year, and there is no established source of new water supply. Massive restoration funding—the State has estimated about \$9 billion—will be required and has not been identified. It is thus possible—indeed probable—that the western shore of the Salton Sea may continue to recede and that severe salinity and pollution issues will remain unresolved. Approval of development plans that bank on a scenic shoreline, resort, and marina before resolution of these issues is simply foolhardy. This is an independent reason to defer decision on this project.

Aside from these compelling policy reasons, EHL objects to the Project because its environmental documentation does not meet the standards of the California Environmental Quality Act (CEQA). Other than the inadequacies identified by other commenters in the formal comment period, upon which EHL would rely, the cumulative impacts analysis improperly relies on regional forecasts based on adopted plans. It wholly fails to account for all pending and foreseeable development in Riverside County, including that encompassed by landowner-initiated General Plan amendments, the County-initiated General Plan Amendment, all pending specific plan applications, and other pending applications in nearby cities. Again, deferral of the decision on this Project until the General Plan is comprehensively updated, and incorporation of alternative concepts into the project description for that Update, would resolve this inadequacy in the cumulative impacts analysis.

For these reasons, EHL urges that your Board deny approval now and defer consideration of future land uses for this area as part of a comprehensive General Plan update when larger regional questions of housing supply, water availability, employment, and transportation can be addressed.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Silver, MD", with a stylized flourish at the end.

Dan Silver, MD  
Executive Director

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August 10, 2011

*Via E-Mail and Federal Express*

Riverside County Clerk of the Board  
4080 Lemon Street, 1st Floor  
Riverside, CA 92501  
cob@rcbos.org

Re: Travertine Point Specific Plan No. 375, and Related Approvals.

Dear Chairman Buster and Members of the Board:

We submit this letter on behalf of the San Geronio and San Diego Chapters of the Sierra Club to urge you to deny the proposed Travertine Point Specific Plan ("Project") because the Final Environmental Impact Report ("FEIR") for the Project fails to comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 *et seq.* and the CEQA Guidelines, California Code of Regulations, title 14, § 15000 *et seq.* ("CEQA Guidelines"). In addition, the Project conflicts with Riverside County's ("County") General Plan, in violation of State Planning and Zoning Law, Govt. Code § 65000 *et seq.*

**I. The FEIR's Project Description is Inadequate.**

**A. The FEIR's Project Description is Unstable and the FEIR Fails to Adequately Describe the Probable Downscaling of the Project and the Resulting Impacts.**

A stable and consistent project description is a prerequisite to a legally sufficient EIR. Without a stable and full project description, the public and decisionmakers are left to guess about the true scope of a project. Here, the project description is unstable because it describes the Project in two different ways. On the one hand, it describes the whole project, including 16,655 dwelling units, 5,029,500 square feet of commercial

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space,<sup>1</sup> four different “districts,” and various open space, all of which would be constructed in five phases over 35 years. *See, e.g.*, FEIR at 1.0-3, 1.0-13 – 18, 1.0-26, 3.0-98. On the other hand, the FEIR admits in numerous places that the entire project may never be constructed for a variety of reasons. As a result, the FEIR fails to provide a stable and consistent project description and fails to analyze the impacts to the rest of the Project and the environment if certain Project components never get built.

For example, the FEIR states that one whole section of the Project, the marina, may never be constructed. The FEIR describes the marina as “a *potential* future use that *assumes the successful restoration of the Salton Sea as presently proposed by the Salton Sea Authority . . .*” FEIR at 1.0-18 (emphasis added); *see also* FEIR at 3.0-35 (“A resort-tourist commercial site along the Salton Sea shoreline will feature a marina, *subject to the successful restoration of the sea.*” (emphasis added)). Thus, the FEIR frankly admits that the Project may never include a marina, with its associated employment and commercial area. *See* FEIR at 3.0-13 (“the marina area will also provide specialty retail shops, restaurants, and an opportunity for lodging”). Yet the FEIR never describes whether the rest of the Project is viable without the marina and its commercial, job-producing areas. It also never describes what else might be constructed on the site slated for the marina if the Sea is not restored and plans for the marina are scrapped.

This brings up the second major problem with the FEIR’s analysis of the marina. Construction of the marina—and thus the Project generally—assumes the successful restoration of the Salton Sea *as presently proposed by the Salton Sea Authority . . .*” FEIR at 1.0-18 (emphasis added). But the Salton Sea Authority (“Authority”) is not the body charged with restoration of the Sea and has no jurisdiction to dictate what the final Sea restoration plan will entail. The Authority has developed its own restoration plan for the Sea, which involves maintaining a large “lake” in the north end of the Sea’s current limits. FEIR at 4.0-22. However, as the FEIR admits, the current “Preferred Plan” created by the Salton Sea Advisory Committee pursuant to the Salton Sea Restoration Act of 1998 is markedly different than the Authority’s plan. *Compare* FEIR at 4.0-15 – 17 (Salton Sea Advisory Committee’s preferred plan) *with id.* at 4.0-21 – 22 (Authority’s Plan). For example, the Preferred Plan would create a much smaller “lake” at the north end of the current Sea than the Authority’s plan, which might make Sea-based recreation less possible or desirable along the west shore in places such as Salton City. FEIR at 4.0-

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<sup>1</sup> In other places, the FEIR describes the final amount of commercial space as 4,982,330 square feet. FEIR at 7.0-303. This inconsistency also renders the Project description unstable.

17. The Preferred Plan would also create a massive brine sink and exposed playa just a couple miles from the Project, significantly affecting the current views of the Sea from the Project, and possibly creating worse odors, air quality and other impacts. *Id.* However, the Authority's plan would create the brine sink and exposed playa much further to the south, at least 12 miles from the Project site. FEIR at 4.0-22. It would retain a much larger "lake" adjacent to the Project site, which would presumably improve aesthetics and the desirability of the Project for residents.

Although no restoration plan has yet been selected by the state, there is no indication that the Authority's plan has gained traction or that it will be the final, adopted plan for restoration. On the contrary, the committee with statutory authority for selecting a "preferred plan" has come up with a plan that is quite different from the Authority's. In addition, the state has made it clear that, although the Authority may have a role in helping guide restoration efforts, it is the state that is ultimately responsible for restoration, and therefore the state that should control the restoration planning efforts. As the Legislative Analyst's Office explains:

There is considerable interest in the communities surrounding the Sea for direct local control of the restoration process. In order to ensure that those people most directly impacted by conditions at the Sea are empowered to make decisions about its future, the state could designate a local body—such as the Salton Sea Authority—as the body to implement the restoration. While there is merit in giving local interests a role in the restoration process, it is the state—rather than local interests—that has the statutory responsibility to pay for and carry out the restoration. Therefore, focusing authority locally would separate those with authority from those with the primary responsibility for the restoration (including paying for it). This would make it difficult to hold decision makers accountable for their actions.

Legislative Analyst's Office, *Restoring the Salton Sea*, January 2008, p. 32, attached as Exhibit 1.

Given these facts, the FEIR's assumption that the Authority's plan will proceed appears premature, at best. Likewise, the Project's conditioning of the marina on restoration of the Sea according to the Authority's plan severely undermines the possibility that the marina and associated infrastructure will ever be developed. Though the County may condition Project construction, or construction of portions of the Project, on restoration of the Sea according to the Authority's plan, it must analyze the possible environmental impacts of this decision. The FEIR fails to do this, and also fails to analyze many impacts that would occur if restoration of the Sea does not happen at all.



Given that the proposed restoration is expected to cost \$9 billion in state general fund revenue, and that the state is currently in fiscal crisis and cutting payments to universities and other critical programs, it seems wildly optimistic to assume that the state will find \$9 billion to fund Sea restoration. *See Ex. 1 at 21.* The FEIR does not begin to grapple with these facts, and the resulting impacts for the Project.

The FEIR fails to analyze the following specific questions and impacts, among others. How will the Project be different if the Preferred Plan is implemented rather than the Authority's plan? How will it be different if the Sea is not restored at all (other than the lack of a marina)? How will development in the area be affected if the Salton Sea is restored and specifically, will existing lots of record and other development occur rather than remain dormant? If additional development occurs with restoration, how would that impact regional growth and cumulative impacts? How will the views from the Project differ under the Preferred Plan versus the Authority's Plan, and will this difference make the Project less desirable? Will the lack of a marina make the Project less desirable and therefore less likely to proceed? Are the Project's commercial development and jobs standards dependent on a restored Sea? On the Authority's restoration plan? Is the Project feasible at all if the Preferred Alternative ends up being the final plan for the Sea? Is it feasible at all if the Sea is not restored at all?<sup>2</sup> How will commuters and car trips be affected if Project construction begins, but then the marina and later phases are not completed due to Sea restoration proceeding under the Preferred Plan, or not proceeding at all?

Clearly, Project impacts will be dramatically different if the Project is only partially completed, whether due to the Sea not being restored at all, being restored in a different manner than currently anticipated, or for other reasons. For example, the FEIR admits that vehicle trips will be significantly longer after construction of the first couple of Project phases than they will be after completion of the whole Project because there

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<sup>2</sup> The FEIR, in its response to a prior comment by the Sierra Club, states that the "Revised Draft EIR notes that the proposed project is not dependent on the restoration of the Salton Sea, and as such provides analysis of impacts for the various issues (e.g., air quality, biology and others) that address the project's development with and without the successful restoration of the sea." FEIR at 2.0-93. However, we have been unable to locate any reference in the FEIR to the project not being dependent on restoration of the Sea. Nor does the response to comments point to any such reference. Moreover, though the FEIR does analyze the impacts of, for example, odors from the Sea with and without restoration, FEIR at 6.3-125, it fails to analyze numerous other impacts, as described above (e.g., aesthetics, land use impacts, transportation, infrastructure, etc).

would not yet be the commercial areas and on-site jobs that will eventually create a more self-contained community requiring fewer, and shorter car trips. FEIR at 6.19-2 (average trip length for vehicles is 14.5 miles after phase 1 of development, 13 miles after phase 2, and 9.5 miles after phase 3); 6.19-9 (showing different phases of development). Thus, if the Project is not completed, trip lengths will remain long, as more residents will have to travel longer distances for jobs and daily provisions. If the Project is not completed, the EIR's assumption that "50 percent of trips generated by the project would be internal to the project site" would also be inaccurate because there would not be enough commercial areas on-site for residents to obtain daily necessities or find jobs. FEIR at 6.9-46. Likewise, its assumption that 14 percent of internal trips would be by pedestrians would likely be inaccurate. To be legally adequate, the FEIR must be revised to analyze all of these critical questions and issues.

Likewise, the FEIR admits that other factors may lead to cessation of Project construction after partial completion. For example, the FEIR states that Project construction will halt after issuance of 12,788 building permits until such time as SR-86 is widened to a six-lane freeway. FEIR at 6.19-133; *see also* FEIR at 1.0-134 – 135 (Project may not proceed unless various different milestones are met regarding implementation of freeway widening). As described in the portion of these comments regarding transportation impacts, there is currently no guaranteed funding to widen SR-86, and thus no evidence that it will ever be widened. FEIR at 6.19-130 ("the ability to provide future financing of improvements [to SR 86] is not known"). As such, there is a significant likelihood that the Project will not be allowed to construct units 12,789 – 16,655. The FEIR must analyze the impacts of that eventuality.

As another example, construction of residential units is conditioned on construction of a certain amount of commercial, non-residential space. Travertine Point Specific Plan 375, at 3-474. This is intended to ensure that there are sufficient employment opportunities available for residents. By including this policy in the Project, the County effectively concedes that the whole Project may never be built if the developers are unable to lure a sufficient number of businesses to the site. Thus, residents who purchase during an early phase of the Project may be left living in a half-built development that lacks the full commercial areas, marina, jobs and other amenities that would only be built in later phases of Project construction. *See, e.g.*, FEIR at 6.19-51 ("The design elements to encourage internal trip making and reduction of vehicular traffic will be in place at the completion of the project. Not all elements will be in place in the early phases . . .").

The jobs issue is of particular concern. Although one of the main purposes of the Project design is to create numerous jobs, the Project's mechanism of tying future residential construction to commercial construction will not ensure an adequate amount

of commercial space or an adequate number of jobs if the Project is not completed. Specifically, the Specific Plan states that the following jobs/housing requirements must be met:

- a. Prior to the issuance of building permit for the 3,250th residential unit, 89,000 s.f. of nonresidential development is required to be built and occupied.
- b. Prior to issuance of building permit for the 6,858th residential unit, 440,500 s.f. (529,500 s.f. cumulative) of non-residential development is required to be built and occupied.
- c. Prior to issuance of building permit for the 10,244th residential unit 1,100,000 s.f. (1,629,500 s.f. cumulative) of non-residential development is required to be built and occupied.
- d. Prior to issuance of building permit for the 15,410th residential unit, 2,400,000 s.f. (4,029,500 s.f. cumulative) of non-residential development to be built and occupied.
- e. Prior to the build out of 16,655th residential unit, 1,000,000 s.f. (5,029,500 s.f. cumulative) of non-residential development is required to be built and occupied.

Specific Plan at 3-474.

Thus, if the final Project ends up containing only 16,654 units—just one less than the maximum allowed—there is no requirement to construct that last million square feet of non-residential development. And if the final Project has only 15,409 units—only 1250 fewer units than the maximum allowed—there is no requirement for 3.4 million square feet of non-residential development. In other words, despite the FEIR's rhetoric about conditioning housing construction on the concurrent provision of commercial space and jobs, the Project actually allows *93% of the homes to be built* while requiring only *32% of the non-residential, jobs-creating development* to be built.<sup>3</sup> It is not only possible

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<sup>3</sup> Likewise, there is no requirement for construction of commercial/industrial space at all until the 3,133rd building permit is issued, which means that there could be more than 7,000 residents and no jobs or commercial square footage. See FEIR at 1.0-3 (ratio of 2.26 residents per unit is assumed for Project). If the developer is unable to find companies willing to construct commercial/industrial space early on, the Project could (footnote continued)

that this could occur, but the FEIR *explicitly states* that development will halt if any one of numerous contingencies occur, as described above.

As such, the FEIR's project description is shifting and inaccurate, as it admits in numerous places that the full Project may not be built, yet assumes for purposes of jobs, employment, and certain mitigation measures that it will be fully constructed. Further, the FEIR entirely fails to analyze the numerous impacts that would occur if the Project was only partially completed. To be legally adequate, the FEIR must describe the impacts to traffic and transportation, parks, infrastructure, land use, jobs/housing balance, general plan consistency, air quality, finances, aesthetics, vehicle miles traveled, and other areas that would occur if the Project is only partially completed. As one example among many, allowing the Project to be only half completed could lead to blight. *See* FEIR at 6.9-53 (describing other area projects that were never completed due to issues with the Salton Sea and which now contain "substantial blight" as a result).

**B. The FEIR's Project Description Fails to Include Numerous, Essential Project Components, and the FEIR Fails to Analyze the Potential Impacts of These Components.**

Where infrastructure improvements are integral to, and planned in conjunction with a project, they must be considered part of the project, and their impacts must be analyzed together with the project's other impacts. For example, where a residential development requires construction or expansion of roads or sewer plants, construction of those expanded or new facilities must be analyzed along with the project. *See San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214. Here, the Project will require numerous infrastructure components, but the FEIR fails to actually analyze all the impacts of constructing the Project components. It is irrelevant that the infrastructure improvements may require separate, later approvals. *See* CEQA Guidelines § 15378(c).

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well halt, and up to 7,000 residents would be stranded in the middle of the desert with no nearby, sizable communities and virtually none of the promised on-site amenities.

**1. The FEIR Fails to Analyze the Expansion of SR-86 As Part of the Project.**

The Project is wholly contingent on expansion of SR-86. FEIR at 1.0-153 – 55 (issuance of building permits is conditioned on milestones toward expanding SR-86, and eventual construction of two additional lanes). Indeed, the developer is expected to pay between 95 – 100 % of the costs of constructing two new interchanges for SR-86, and 37% of the cost of widening SR-86 in the greater Project area. FEIR at 1.0-153. Nevertheless, the FEIR does not analyze many of the impacts of constructing the two additional lanes and the two interchanges that are a part of this Project. *See* FEIR at 6.19-38 (describing Project’s “backbone roadway network” and failing to mention SR-86). Such impacts would include traffic issues on SR-86 as work crews expand the roadway, air impacts related to grading, and noise impacts related to construction.<sup>4</sup>

**2. The FEIR Fails to Analyze the Impacts of Wastewater Treatment Plants as Part of the Project.**

The FEIR states that, because the Project does not tie into a current wastewater system, “it would be required to develop its own wastewater conveyance infrastructure system and wastewater treatment plants.” FEIR at 6.21-1. Thus, the FEIR requires a temporary, modular plant to be installed to serve the first 2500 homes. FEIR at 3.0-39 – 40. The Project also requires a larger, permanent plant to serve the full Project. *Id.* However, despite the fact that the Project is contingent on these plants, the FEIR appears not to consider them as part of the Project, and fails to fully analyze the impacts of the plants’ construction and operation. This omission is especially glaring in the case of the permanent plant. Although the “specific plan has identified two possible sites for this permanent facility, one on site and one off site,” the FEIR admits that “its ultimate location, size, and design will be determined *under a separate project* CVWD public works application and environmental review.” FEIR at 3.0-40.

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<sup>4</sup> The FEIR’s noise section undertakes a superficial analysis of construction noise, but fails to say what construction the analysis actually accounts for – e.g., whether it accounts for noise from machinery that will be used to construct SR-86, electrical substations, the wastewater treatment plant, or other infrastructure items that are integral parts of the Project. *See* FEIR at 6.11-29 – 30. The FEIR’s confusing noise analysis makes it nearly impossible to tell what was actually analyzed. This flaw is, in itself, a violation of CEQA because the document fails to actually inform the public and decisionmakers of the Project’s impacts in a comprehensible fashion.

The FEIR's attempt to put off analysis of the impacts of the permanent treatment plant flatly violates CEQA's prohibition against segmenting environmental review for essential components of a project. State law requires that the expansion of a sewage treatment plant that is necessary for a project must be analyzed together with the project. Impacts of the sewage treatment plant here include construction noise, aesthetic impacts, and generation of sludge, among other issues. Although the FEIR does acknowledge that the new sewage treatment plants would generate odors, and proposes some mitigation for odors, FEIR at 6.3-126, it fails entirely to analyze the generation of sludge on a Project-specific or cumulative basis. FEIR at 6.21-19 (stating that "biosolids generated from the wastewater would be treated at the wastewater treatment plant [and] would be stored on site and periodically transported off site," but not mentioning quantity of sludge generated, any odor problems due to sludge storage on-site, or whether there is a place where they can dispose of all the sludge off-site); FEIR at 6.21-27 (stating the Project would not cumulatively contribute to wastewater problems because it will be self-contained, but failing to analyze cumulative impact of sludge generation and disposal). The FEIR's attempt to analyze the permanent sewage treatment plant as a separate, future project with separate environmental review is unlawful.

**C. The FEIR Describes the Project's Relationship to Restoration of the Salton Sea in a Conflicting and Disingenuous Manner.**

The County attempts to tie the Project to restoration of the Salton Sea, and it strongly implies—if not outright states—that the Project will somehow help fund that restoration. For example, the FEIR states that certain alternatives considered in the document would not meet Project objectives because they would not provide as large of a tax base, and thus as much funding, to be used for Sea restoration. FEIR at 7.0-303 (under alternative 3, "local funding to assist in meeting the restoration costs would be limited."), 7.0-420 (alternative 4 "does not provide the same level of potential financial support [for Sea restoration] as the proposed project"); 7.0-529 (alternative 5 "would not provide for any potential . . . funding from a benefit assessment district to assist in meeting the restoration costs."). Likewise, it states that restoration will happen only if "financial energy [is] funneled to the task by developing the surrounding lands," and "Travertine Point is an opportunity for a significant demonstration and catalyst project that would lead to the resultant restoration of the Sea." FEIR at 1.0-10; *see also* FEIR at 3.0-5 (same).

On the other hand, the FEIR bluntly concedes that "the project would not directly fund clean up of the Salton Sea . . ." FEIR at 6.9-79. Indeed, nowhere in the mitigation is there any measure that requires the payment of fees toward restoration, creation of a benefit district that would fund restoration, or any other condition that would provide Project funding for restoration. FEIR at 1.0-1 – 178. Thus, if a goal of the Project is to

help restore the Sea, and if the FEIR is going to reject other feasible alternatives because they would not provide the same financial benefits towards restoration, the FEIR must create an enforceable mechanism to ensure that development of the Project actually funds Sea restoration.

Such a funding mechanism would be a feasible and rational measure that would mitigate impacts related to bad odors, windblown sand and particulate matter from future exposed playas, and other significant Sea-related impacts. In addition, it would help mitigate and offset some of the Project's particulate emissions by ensuring that particulate emissions from future, exposed playas on the Sea were reduced. The FEIR's failure to analyze and adopt such a mitigation measure for these and other impacts renders the FEIR inadequate. Further, the FEIR's confusing and contradictory statements about funding Sea restoration efforts renders the document inadequate to carry out its intended purpose as an informational document. Lastly, the FEIR may not lawfully dismiss otherwise feasible alternatives due to their alleged inability to carry out the Project purpose of funding Sea restoration, when the Project itself does not even include any measure to fund such restoration. This approach is confusing, if not simply disingenuous, and fails to allow the public to meaningfully evaluate the Project in comparison with the alternatives. *See* Guidelines § 15126.6(c),(d) (alternatives discussion must "include sufficient information . . . to allow meaningful evaluation, analysis, and comparison with the proposed project.").

**II. The FEIR Fails to Adequately Analyze the Project's Project-Specific and Cumulative Land Use Impacts and Fails to Mitigate for Significant Land Use Impacts.**

The FEIR states that "[t]he incremental loss of open space as a result of the proposed project is a significant impact." FEIR at 1.0-32; *see also id.* at 6.9-48 (same). However, in other places, it states that no mitigation is required for land use impacts. FEIR at 1.0-108. Given that CEQA requires an agency to undertake all feasible mitigation whenever there is a significant impact, Pub. Res. Code § 21080.5(d)(2)(A), the second statement implies that there are no significant land use impacts. The FEIR's analysis of land use impacts is thus inconsistent, rendering the FEIR inadequate as an informative document.

In any event, feasible measures to mitigation the Project's significant impact on open space exist, and the FEIR was required to analyze them. On page 6.9-48, the FEIR states that:

While the project would preserve 1,647 acres of open space land within the project site, the loss of 2,324 acres of open space would be significant and

unavoidable. No measures are available to mitigate the loss of open space within the project site. The purchase of off-site land for preservation as open space, if such land could be found (see Section 6.2, Agricultural Resources), would not mitigate on-site impacts. Future general plan amendments would be required to convert open space within the project site to other uses.

The FEIR's approach of considering only on-site "mitigation" (i.e., preservation) of open space and summarily rejecting any off-site purchase of open space, flies in the face of CEQA's requirement that agencies consider all possible mitigation, including off-site mitigation that will offset a project's impacts. *See, e.g.*, CEQA Guidelines § 15126.4(c)(3). Here, preservation of off-site open space or agricultural land "would substantially lessen a significant adverse effect that the activity may have on the environment," and would thereby constitute feasible mitigation. Pub. Res. Code § 21080.5(d)(2)(A). Thus, the FEIR unlawfully limited the scope of its mitigation analysis to on-site measures.

Moreover, to the extent the FEIR attempts to rely on the preservation of a certain amount of open space on site, it fails to ensure that the "[m]itigation measures [are] fully enforceable through permit conditions, agreements, or other legally-binding instruments." CEQA Guidelines § 15126.4(a)(2). Rather, it admits that open space within the Project site could later be converted to other uses through future General Plan amendments. FEIR at 6.9-48. To serve as adequate and binding mitigation, all on-site open space land that serves as mitigation for the Project's impacts must be permanently preserved. Moreover, as described below, the Eastern Coachella Valley Area Plan *requires* that the Project contain at least 50% open space or recreation lands. Thus, not only is more on-site mitigation feasible, in the form of preservation of open space, but it is legally *required*.

The FEIR also fails to adequately analyze or mitigate the Project's cumulative impacts to land use and open space for many of the same reasons. First, its cumulative analysis fails to state whether it uses the summary of projects or summary of projections method. FEIR at 6.9-48; *see* CEQA Guidelines § 15130(b)(1). Second, it states that "[i]nformation sufficiently detailed to determine the amount of open space land that would be converted to urban uses as a result of cumulative development is not available." DEIR at 6.9-48. Nevertheless, it concludes that the Project, in conjunction with other proposed projects identified in the cumulative impact section "would result in the incremental loss of open space in both counties, which would be considered a significant impact." *Id.* The FEIR's summary conclusion, with no supporting analysis, fails to abide by CEQA's requirement that an agency must disclose all that it reasonably can, even if it does not have perfect information. It also runs afoul of case law clearly stating that a



summary conclusion that an impact will be significant is not enough; rather, an agency must actually analyze the impact. *Santiago County Water Dist. v. County of Orange*, 118 Cal.App.3d 818 (1981).

Further, Riverside County clearly has information sufficient to analyze how much agricultural land and open space will be lost due to the Project and related projects in the County. The County discloses the number of proposed homes and square footage of commercial development for dozens of other area projects. FEIR at 5.0-6 – 8. Given that Riverside County is the lead agency for these other proposed projects, it knows the size of the projects, and therefore how much open space and agricultural land they will destroy. Indeed, as discussed below in the General Plan consistency section, there *is* available information regarding loss of open space due to other projects, and this information shows that just *three* of these related projects will result in the loss of thousands of acres of agricultural land and open space. The FEIR's failure to disclose this crucial information about cumulative impacts blatantly violates CEQA's requirement for full disclosure of impacts.

Compounding the problem, the FEIR's cumulative impact analysis for open space and agricultural land conversion uses far too narrow a geographic area. The FEIR analyzes the cumulative land use impacts of the Project in conjunction with only a handful of proposed projects along the west shore of the Salton Sea and north of the Sea, FEIR at 5.0-3 – 4, and fails to "provide a reasonable explanation for the geographic limitation used" in its analysis. CEQA Guidelines § 15130(b)(3). In fact, the FEIR admits elsewhere that this constrained analysis is improper. The document states that this limited geographic area is only relevant to the FEIR's analysis of cumulative impacts on "population and housing, public services, and utilities." FEIR at 5.0-2. "Other issues address a broader scope of cumulative analysis and use buildout of the existing general plan projections." *Id.* Thus, the FEIR's use of the constrained geographic scope, rather than a county-wide analysis assuming build-out of the two counties' general plans, is improper for analyzing the loss of open space and other land use issues. FEIR at 6.9-48. Given that loss of open space is a countywide issue, as evidenced in Riverside and Imperial Counties' General Plans, the FEIR must analyze the loss of open space and agricultural land on a countywide basis. The FEIR's failure to do so renders the document legally deficient.

Because the Project will make a cumulatively considerable contribution to loss of open space, mitigation for cumulative impacts is required. Nevertheless, as with the Project-level impacts, the FEIR states that "[n]o feasible mitigation exists to reduce the [cumulative] loss of open space." FEIR. 6.9-49. For the reasons described above, this is simply false. In addition to off-site mitigation, such as purchasing conservation easements, feasible mitigation includes adopting ordinances or other plans to preserve

open space. CEQA specifically acknowledges that “[w]ith some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.” CEQA Guidelines § 15130(c).

Here, the FEIR does not fully describe or analyze the feasibility of such mitigation, which could include a development fee that would be used to purchase land or easements to offset loss of natural or agricultural open space. Examples of such fees include the agricultural mitigation program described in the Livermore General Plan Land Use Element, which requires the permanent protection and planting of one acre of agricultural land for each acre developed and an additional acre protected and planted for each unit built. *See* Exhibit 2, pp. 3-69, 3-76, 3-78, 3-89.<sup>5</sup>

In addition, given that this Project is expected to be growth inducing, that this level of development was not planned for in this area, and that the Eastern Coachella Valley Area Plan requires this new community to contain permanent and fixed urban boundaries, mitigation for cumulative impacts should include either purchasing other development rights in the area, or a similar measure to ensure that this Project soaks up area growth, rather than inducing more growth that will impact more open space and agricultural land. The Lake Tahoe basin requires similar purchase of development rights and limitation on new development; this could serve as a model for the Coachella Valley. *See* Exhibits 4, 5, 6. The FEIR is deficient due to its lack of analysis of all feasible Project-specific and cumulative mitigation. It must be revised to include this analysis and then recirculated.

### **III. The FEIR Fails to Analyze Noise Impacts From Military Flights Over the Project Site.**

The El Centro Naval Base, which is located approximately 50 miles southeast of the Project site, has two active runways where more than 165,000 take-offs and landings occur each year. FEIR at 6.9-26. In fact, there are at least 450 take-offs and landings per day, occurring between the hours of 7 a.m. and 11 p.m. *Id.* Navy flights originating at this base use airspace over the Project area for military training routes, and two of those

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<sup>5</sup> Other examples include perpetual community benefits fees or fees imposed on the sale of real estate to help integrate new development with adjoining natural and physical communities. Such fees are in the form of payments for each real estate sale made as a payment to a nonprofit or other qualified entity that is made upon a transfer of qualifying property. The fee is generally set as a percentage of the purchase price (e.g. 1 percent) and is paid upon closing of the transfer.

routes are either directly over the Project site or very close to it. *Id.*; see also FEIR at 6.9-33. These flights include low altitude operations, with fighter jets being allowed to fly a mere 200 feet above the ground. FEIR at 6.9-26. As the FEIR states, “Navy and Marine Corps aviation squadrons currently fly tactical jet aircraft through this area and plan to continue to transit this area.” FEIR at 6.9-26 – 27.

Despite the anticipated presence of hundreds of fighter jets flying at low altitudes over the Project site, the FEIR entirely fails to analyze the noise impacts of this activity. The document acknowledges that the sound of a near jet engine can be nearly 140 decibels, at the very top of the scale for noise. FEIR at 6.11-5. The document describes this amount of noise as “deafening.” *Id.* Yet the FEIR does not mention these military overflights at all in its noise analysis. Instead, it merely analyzes whether there will be any noise impacts from *passenger* airplanes, and concludes that there will not be. FEIR at 6.11-49. This glaring omission renders the FEIR’s noise analysis legally inadequate. The potentially deafening noise from hundreds of squadrons of fighter jets flying as low as 200 feet over residential homes unquestionably qualifies as a significant impact. See *Berkeley Keep Jets Over the Bay Com. v. Board of Port Comrs.*, 91 Cal.App.4<sup>th</sup> 1344 (2001). Therefore, the FEIR’s conclusion that “noise impacts resulting from aircraft in Riverside County and Imperial County are considered to be less than significant” (FEIR at 6.11-49) is not supported by any evidence, much less substantial evidence. Indeed, it is based on a failure to analyze an important source of airplane noise.

The FEIR may not justify its conclusion that noise impacts from airplanes are insignificant by relying on a threshold of significance that fails to account for a potentially significant source of noise. The FEIR should also use a threshold such as the one in Appendix G of the CEQA Guidelines, which states that an impact may be significant if there will be “[e]xposure of persons to . . . levels [of noise] in excess of standards established in the local general plan or noise ordinance . . . .” As explained below, noise levels at the Project site will likely exceed noise levels specified for this type of development in the County’s ordinances. The FEIR must be recirculated after the County analyzes this significant new information.

In addition to the FEIR’s failure to consider the noise impacts of the military flights, the Project violates Riverside County noise ordinances. As explained in the FEIR, the County Code states that “[n]ew construction or development should generally not be undertaken” in areas that experience noise at levels of 75 decibels or above, and auditoriums should not be located in areas that experience noise at levels of 60 decibels or above. FEIR at 6.11-14. Given that jet engines at near range can exceed 100 decibels, FEIR at 6.11-5, the Project land uses are inappropriately located under a low-altitude military flight path. As such, the Project violates Riverside County Ordinance 847.

The FEIR also fails to include any mitigation for these significant impacts. Such mitigation could include a requirement that all future residents be informed in writing of the impact before purchasing property. Given that the Project includes similar mitigation that will inform Project residents of odors from the Sea and poor air quality, this is clearly feasible.

**IV. The FEIR's Transportation and Traffic Analysis is Faulty.**

**A. The FEIR Makes the Bizarre Assumption that None of the 37,000 Project Residents Will Ever Use Nearby Airports.**

In the section analyzing transportation impacts, the FEIR purports to analyze the Project's impacts to air traffic. However, the document's entire analysis consists of the following statement:

The airports nearest to the proposed project site are Jacqueline Cochran Regional Airport, approximately 10 miles to the north, and Palm Springs International Airport, approximately 35 miles to the northwest. The proposed project site is located outside of both airports' influence area boundaries. Therefore, no impacts would occur.

FEIR at 6.19-4.

The FEIR apparently assumes that, since the Project site is outside the airports' "influence area boundaries," none of the nearly 40,000 residents of the Project will ever drive ten miles or more to fly on an airplane. This is preposterous. Of course people drive ten miles, thirty five miles, and much farther in order to reach an airport. And as a matter of logic, Project residents will want to use these airports to fly to see family and friends, or for work and leisure. The Project will create significant demand for these airports, which may well necessitate construction of airport expansions, extension of runways, or increase of flights. The FEIR is deficient for failing to analyze this possible impact.

**B. The FEIR Fails to Properly Analyze the Impacts of Constructing New Lanes on SR 86 and Fails to Ensure that Funding for This Integral Project Component is Secured.**

The FEIR contains a contradictory and inadequate analysis of the County's ability to improve SR-86 to the extent called for by the Project. For example, the FEIR assumes that SR-86 will be widened to six lanes and that the Project is dependent on this infrastructure; indeed, as explained in the "project description" part of these comments, this widening project is actually *part of* the overall Travertine Point Project. As such, the

FEIR discloses that “[p]ending the outcome of further engineering, financial, environmental, and other studies, Riverside County intends to establish a Road and Bridge Benefit District (RBBD), or other area-wide funding mechanism for the corridor, which includes this project site, in order to upgrade SR-86/SR-86S to a six-lane freeway.” FEIR at 6.19-4. However, in other statements, the FEIR bluntly admits that no funding is in place to support construction of this needed improvement, and that Riverside County has no plans to create a benefit district to obtain such funds:

Although the applicant has identified potential funding sources, there is currently no benefit improvement area in place, *and Riverside County has no plans for any such program*. Additionally, Imperial County has no regional program for improving or collecting fees to address SR 86S improvements. Therefore, the ability to provide future financing of improvements *is not known* and cumulative impacts for SR 86S are potentially significant.

FEIR at 1.0-33 – 34 (emphasis added). The FEIR’s contradictory analysis regarding whether the County will create a benefit district to secure needed funding renders the FEIR inadequate as an informational document.

Moreover, in an attempt to address this disturbing question regarding the Project’s ability to proceed, the FEIR contains “mitigation measures” that state that the Project simply will not proceed if certain milestones toward highway widening do not occur. FEIR at 1.0-153 – 154. The County’s approach is unlawful. Under CEQA, the County may not avoid its responsibility to ensure funding for, and analyze the impacts of, widening SR 86 by claiming that the Project simply will not develop past a certain point if the highway is not widened to six lanes. *See* FEIR at 1.0-135. *See Stanislaus Natural Heritage Project v. County of Stanislaus*, 48 Cal.App.4th 182, 206 (1996).

In sum, widening of SR-86 is part of the Project, and the FEIR must assume that this improvement, along with the rest of the Project, will go forward. To do this, it also must demonstrate that there is a funding mechanism that will actually ensure that this happens. The FEIR’s current, contradictory analysis fails to do this. If, on the other hand, funding for the improvements on SR-86 is uncertain, the FEIR must analyze the impacts of a scenario where that Project component is never constructed. For example, what would be the impacts on traffic and air quality?

**C. The FEIR Does Not Contain Substantial Evidence to Support Its Assumption That 14% of Project-related Trips Will be Made on Foot.**

The FEIR touts the Project as being pedestrian- and bike-friendly. While its goals of more compact, multi-use development are laudable, the FEIR underestimates the Project's actual use of vehicles, and thus the air pollution and other impacts associated with vehicle use, by assuming an unrealistically high percentage of on-site trips will be made by foot rather than vehicle. Specifically, the FEIR assumes that 14% of trips will be made on foot by pedestrians. FEIR at 6.19-2. This percentage is wildly unrealistic for an area with temperatures that regularly exceed 100 degrees, with a putrid sea nearby, and with 30% or more of residents projected to be elderly or retired. See FEIR at 4.0-3 ("Temperatures exceed an average 100 degrees Fahrenheit for four months each year" in the Coachella Valley; in Imperial County, "temperatures of 100 degrees occur more than 100 days each year"); FEIR at 3.0-39 (a third of the Project's housing is slated for "active adult" communities). Indeed, given that the active adult communities will likely be sited in gated communities, FEIR at 3.0-39, it is doubtful that the retirees, no matter how "active," will walk past the gates and into more distant neighborhoods in 100 degree weather to get their groceries. Indeed, a recent study shows that "youth make up a disproportionate amount of bicycling and walking trips" in the U.S. *Bicycling and Walking in the United States*, 2010 Benchmarking Report, p. 44, attached as Exhibit 7. Moreover, the same study states that the *only major city* in the U.S. that achieves a 14% or greater share of pedestrian trips is New York City. *Id.* at p. 36. There is not sufficient evidence in the FEIR that the Project can buck this trend.

The FEIR's assumptions regarding pedestrian usage are also questionable given that "[t]he proposed project will locate a future population in an area that experiences potentially hazardous concentrations of ozone [and that r]epeated exposure to ozone pollution may cause permanent damage to the lungs . . . [and] inhaling it triggers a variety of health problems." "It is reasonable to expect that sensitive populations residing at the project site, if exposed to long-term high levels of ozone, VOCs, PM<sub>10</sub> and PM<sub>2.5</sub>, could experience more serious adverse health impacts, especially for individuals with preexisting conditions." FEIR at 1.0-31. The FEIR fails to account for any of these conditions when determining that 14 % of Project trips will be made by pedestrians. Indeed, even though the FEIR admits that "[d]uring the most intense heat of summer or on rainy days, it is likely that travelers may choose enclosed travel modes more often than at other times of the year," it evaluates trip rates using "shoulder season (spring/fall) conditions, which are typically mild . . ." FEIR at 6.19-56. Without analyzing the actual factors that will influence pedestrian trip generation, the FEIR's assumption regarding pedestrian trips appears to be nothing more than wishful speculation. CEQA does not allow such speculation, but requires an EIR's conclusions to be based on substantial

evidence. The goals are laudable, but the evidence is simply not there to support the FEIR's conclusions.

Moreover, if the Project is not fully built out, the FEIR admits that the trip rates are not accurate, and that more trips would be made by vehicle. FEIR at 6.19-51 ("The design elements to encourage internal trip making and reduction of vehicular traffic will be in place at the completion of the project. Not all elements will be in place in the early phases . . ."). The FEIR must be revised and recirculated to analyze all of these impacts.

**V. The FEIR's Air Quality Analysis is Flawed.**

**A. The FEIR Failed to Respond Adequately to Comments Regarding Mitigation for Health Impacts, and Fails to Adopt Feasible Mitigation.**

The South Coast Air Quality Management District commented that the County should adopt further mitigation measures as outlined in the California Air Resources Board's Air Quality Land Use Handbook. FEIR at 2.0-501. It requested that, in addition to the Project's current mitigation measures requiring certain residential and other uses to be located 300 or 500 feet from freeways, the Project include other, similar measures to protect public health, as recommended in the Handbook. *Id.* In response, the FEIR mentioned the mitigation measures already proposed by the Project, claiming that these measures responded to the Air District's concerns as well as the recommendations in the Handbook.

While the FEIR's proposed mitigation is a step in the right direction, the County's response failed to acknowledge that the Handbook proposes other types of mitigation that are not required in the FEIR. For example, the Handbook recommends both that a project should "not site new sensitive land uses in the same building with perc dry cleaning operations," and that it should "[a]void siting new sensitive land uses within 300 feet of any dry cleaning operation. For operations with two or more machines provide 500 feet." California Air Resources Board, Air Quality Land Use Handbook, 2005, p. 30, attached as Exhibit 8. Likewise, the Handbook recommends locating sensitive land uses either 50 or 300 feet from gasoline stations, depending on the size of the station. *Id.* at 32. Nowhere does the FEIR analyze or propose mitigation measures to restrict housing near dry cleaners, gas stations, or other sources of pollution. *See* FEIR at 1.0-48 – 50 (mitigation measures do not include these items). These measures are clearly feasible, and the FEIR is deficient for failing to include them or to analyze them in its response to comments.

**B. The FEIR Fails to Analyze or Require Any Mitigation Measures for the Project's Admittedly Significant Impacts Due to Inconsistency With Applicable Air Quality Plans.**

The FEIR admits, as it must, that the Project conflicts with the Air Quality Plans for the South Coast Air Quality Management District and Imperial County Air Pollution Control District. FEIR at 6.3-98 – 103. As a result, “[i]mpacts would be significant and unavoidable.” FEIR at 6.3-103. Despite this admission, the FEIR asserts, with absolutely no analysis or support, that “[n]o feasible mitigation measures exist” to minimize or mitigate these impacts. Under CEQA, an agency must analyze and adopt all feasible mitigation for significant impacts. Pub. Res. Code § 21002. Here, the FEIR fails to analyze possible mitigation or even describe why none exists. This omission violates CEQA’s requirement that EIRs provide reasoned analysis and support, and not rely on unsupported conclusions. For that reason alone, the FEIR is invalid and must be revised and recirculated.

Moreover, mitigation measures clearly do exist. The FEIR assumes that the Project conflicts with the Air Quality Plans because the Project will cause more people to live in the area than the Air Quality Plans had assumed. Thus, because the Air Quality Plans did not account for the projected number of residents, vehicles, etc, its air quality improvement measures will not suffice. Still, it would have been easy to develop various measures to mitigate this impact. First, Riverside and/or Imperial Counties could enact ordinances or amend their general plans in a manner that reduces the allowable development elsewhere in the immediate region. In this way, the Project’s population, which is far higher than planned for the specific site, would not lead to a *regional* population growth that is higher than the population assumed in the Air Quality Plans. In other words, the counties could offset the unexpected residential and commercial development boom on the Project site by restricting development elsewhere in the area. This would effectively nullify the area’s population increase and mitigate any effect that the Project’s population would have on the Air Quality Plans. As explained elsewhere in these comments, this could occur through a variety of mechanisms, including purchase of development rights elsewhere.

Second, the Project’s size could be reduced to minimize the conflict with the Air Quality Plans. The public and decisionmakers have no way of knowing whether a reduced size Project would be feasible mitigation, because the FEIR failed to analyze it in the context of mitigating impacts related to conflicts with the Air Quality Plans.<sup>6</sup>

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<sup>6</sup> Although the FEIR’s alternatives section does analyze a reduced size alternative, it does not find that the reduced size alternative is infeasible; on the contrary, it finds that (footnote continued)



Without analyzing any potential mitigation measures, or at least providing a reasoned explanation and evidence regarding why none exists, the FEIR is legally deficient and must be revised and recirculated.

**VI. The FEIR's Cumulative Impact Analysis Is Inadequate.**

The cumulative impacts of the proposed project, taken together with the impacts that will result from the remainder of growth and development in the region, are barely explored at all. To determine whether a cumulative impact must be analyzed, the EIR must address two questions:

- Is the combined impact of the project and other projects significant? CEQA Guidelines §15130(a)(2).
- Is the project's incremental effect cumulatively considerable? CEQA Guidelines § 15130(a).

A project's incremental effect may be "cumulatively considerable" even if the project-specific impact alone is less than significant. *Id.*; see also *Kings County*, 221 Cal.App.3d at 721 (holding that the small quantity of air pollution created by a new project – determined to be less than significant at a project level – could nevertheless be "cumulatively considerable" given the existing significant air quality problems in the area). If the combined impact is significant and the project's incremental effect is cumulatively considerable, the EIR must analyze the cumulative impact and identify appropriate mitigation measures. CEQA Guidelines §§ 15130(a), 15130(b)(5).

The cumulative impacts analysis here fails to account for reasonably foreseeable development. For example, the EIR's description of the cumulative scenario improperly excludes 18,840 recorded residential lots in Imperial County:

Not included in the list of cumulative projects are 18,840 recorded residential lots within the Imperial County communities of Desert Shores, Salton Sea Beach, Vista del Mar, and Salton City... These lots have been recorded for some years, but remain undeveloped due to a lack of demand. FEIR at 5.0-2.

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it would meet most project objectives and would reduce impacts related to air quality. FEIR at 7.0-419 – 420. Thus, the County must consider this alternative in its analysis of mitigation measures for the impacts related to conflicts with Air Quality Plans.

With the exception of the Plan Consistency discussion, none of the impact analyses assume the development of these lots. FEIR at 8.3-4.<sup>7</sup> The Plan Consistency analysis does appear to assume that all the unbuilt lots on the West shore of the Sea will be developed. FEIR at 6.2-88 – 89 (“Several development projects in nearby areas have been approved by both Riverside and Imperial counties. A substantial portion of the approved residential uses in nearby areas are presently undeveloped; however, once they are developed, the proposed project would be adjacent to these, and leapfrog development would not occur”); *see also* FEIR at 4.0-6 – 4.0-7 (showing there are 26,011 approved lots/units along west shore of Salton Sea in Imperial and Riverside Counties that “can be built today without additional entitlement.”) This analysis contradicts the FEIR’s cumulative analysis section, which assumes that these projects will not develop.

In addition, the FEIR’s cumulative analyses for a number of impacts use far too narrow a geographic scope. For example, while the FEIR analyzes the cumulative land use impacts of the Project in conjunction with only a handful of proposed projects along the west shore of the Salton Sea and north of the Sea (*see* FEIR at 5.0-3 – 4, 6.9-48 – 49), the document does not “provide a reasonable explanation for the geographic limitation used.” CEQA Guidelines § 15130(b)(3). In fact, the FEIR states that this limited geographic area should *not* have been used for this analysis, and that it is only relevant to the FEIR’s analysis of cumulative impacts on “population and housing, public services, and utilities.” FEIR at 5.0-2. “Other issues address a broader scope of cumulative analysis and use buildout of the existing general plan projections.” *Id.* Thus, the use of the constrained geographic scope to analyze cumulative land use impacts such as loss of open space and agricultural land is improper under CEQA and the EIR’s own reasoning. A revised EIR must be prepared and recirculated that analyzes the cumulative impacts on a region- and county-wide basis.

In addition, the EIR fails altogether to analyze the cumulative impact of disposing millions of tons of new sewage sludge. FEIR at 6.21-27. At present, the document leaves decisionmakers and the public in the dark as to where this massive amount of material will be deposited.

Finally, where the EIR does attempt to analyze cumulative impacts, the analysis is inadequate. For example, the document provides only the following scant discussion of the Project’s cumulative impacts on land use and planning:

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<sup>7</sup> It is not clear whether the EIR’s Growth Inducing discussion includes these lots; the discussion is ambiguous. FEIR at 8.3-5 – 7.

Cumulative Analysis for Land Use and Planning: “Growth within Riverside and Imperial counties is anticipated in regional plans and jurisdictional general plans. Some of the related projects identified for the proposed project are located on land designated for agricultural or open space uses in the Riverside County and Imperial County general plans. Information sufficiently detailed to determine the amount of open space land that would be converted to urban uses as a result of cumulative development is not available. However, the proposed project and the related projects identified in Section 5.0, Cumulative Scenario, would result in the incremental loss of open space in both counties, which would be considered a significant impact.” FEIR at 6.9-48 It further provides that no feasible mitigation exists. FEIR at 6.9-49.

As described elsewhere in these comments, the County surely has more detailed information regarding the amount of open space that is being converted by other development projects in the region. For example, the FEIR’s cumulative impact section lists dozens of other developments in the area, yet the document fails to even attempt to add up the acreage of open space that will be lost due to these projects. The FEIR may not justify its complete failure to quantify and analyze the cumulative impacts to open space merely by rotely concluding that the impacts are significant. Such “analysis” fails to conform to CEQA’s mandate that the County find out and disclose all that it reasonably can. *Santiago County Water Dist. v. County of Orange*, 118 Cal.App.3d 818 (1981). Nor may the EIR rely on a cursory reference to county planning documents, which have not been summarized or properly incorporated by reference. In addition, given that these planning documents did not anticipate the present Project or some of the other related projects in the area,<sup>8</sup> they could not have provided the necessary cumulative impacts analysis.

Because the Project will make a cumulatively considerable contribution to the loss of open space as well as other cumulative impacts, mitigation for these impacts is required. Yet, the FEIR does not even attempt to describe or analyze the feasibility of such mitigation. The FEIR is deficient due to its lack of analysis of cumulative impacts and its failure to identify feasible mitigation for cumulative impacts. It must be revised to include this information and analysis and then recirculated.

## **VII. The FEIR Fails to Consider a Reasonable Range of Alternatives.**

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<sup>8</sup> There are numerous other area projects that will also require General Plan amendments, and that were therefore not anticipated in the General Plan. See Exhibits 11-16 (describing Mecca, Thermal 551 and Panorama projects, among others).

CEQA provides that “public agencies should not approve projects as proposed if there are feasible alternatives . . . which would substantially lessen the significant environmental effects of such projects.” § 21002. As such, a major function of the EIR “is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.” To fulfill this function, an EIR must consider a “reasonable range” of alternatives “that will foster informed decisionmaking and public participation.” CEQA Guidelines § 15126.6(a). “An EIR which does not produce adequate information regarding alternatives cannot achieve the dual purpose served by the EIR . . . .” *Kings County*, 221 Cal.App.3d at 733. By failing to analyze feasible alternatives consistent with the General Plan and zoning, and unreasonably removing all off-site alternatives from consideration, the EIR for the Project fails to present a reasonable range of alternatives and thus violates CEQA.

CEQA requires that public agencies refrain from approving projects with significant environmental impacts where there are feasible alternatives that can substantially lessen or avoid those impacts. *Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4<sup>th</sup> 105, 123; § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2). The “cursory rejection” of a proposed alternative “does not constitute an adequate assessment of alternatives as required under CEQA,” and it “fails to provide solid evidence of a meaningful review of the project alternative that would avoid the significant environmental effects identified. . . .” *Mountain Lion Foundation*, 16 Cal.4<sup>th</sup> at 136.

In light of the acknowledged significant impacts the Project will have on multiple resources, it is incumbent on the County to carefully describe, analyze and consider all of the feasible alternatives to the Project. There appears to be more than one in this category, including the reduced size alternative, a purchase of development rights alternative, a true plan consistency alternative, and a plan consistency alternative that consists of renewable energy development. In addition, omitted from review, but likely a superior alternative would be an option directing growth to infilling existing cities, within existing City limits or their spheres of influence.

The alternatives analyzed in the FEIR include:

- Alternative 1 – No Project: This alternative assumes the Project would not be constructed. FEIR at page 7.0-5.
- Alternative 2 – Buildout Under the Existing Land Use and Zoning Designations. FEIR at page 7.0-5.

- Alternative 3 – Riverside County Only. This alternative would consider developing only the Riverside County portion of the Project site with 15,407 units and 4,862,000 square feet of commercial. FEIR at page 7.0-8.
- Alternative 4 – Decreased Land Use Intensity Project. FEIR at page 7.0-8
- Alternative 5 – Alternate Site – This Alternative would be located about 8.2 miles to the northwest of the proposed site, entirely within Riverside County. This alternative would include development of 16,655 residential units and 5,029,500 square feet of commercial space on 5,140 acres (or about 200 more acres than the proposed project). FEIR at 7.0-13.

For the reasons set forth below, these alternatives fail to provide a reasonable range under CEQA.

**A. The EIR Fails to Consider an Alternative that is Consistent with Applicable Plans**

The EIR fails to consider a true “plan consistency” alternative. The plan consistency alternative should be guided by what would reasonably be expected to occur under existing planning and zoning. Alternative 2 – Buildout Under the Existing Land Use and Zoning Designations– purports to fulfill the EIR’s responsibility to analyze such an alternative, but it does not do so.

First, Alternative 2 as initially described immediately departs from what would reasonably be expected to occur under current planning and zoning designations. As the FEIR states with respect to the high dwelling unit and commercial square footage this Alternative:

*It should be noted, though, that these figures are based on the most dense permitted uses within these land uses and more than likely this amount of development would not occur within the Alternative 2 site. FEIR at 7.0-8 and 7.8-82. (emphasis added).*

Later, the discussion of Alternative 2 demonstrates how far removed the Alternative actually is from any plan that could be reasonably implemented based on existing plans and zoning for the site. For example, Alternative 2 fails to take into consideration numerous land use policies and other applicable plans (e.g., the Coachella Valley Multiple Species Habitat Conservation Plan, or “MSHCP”) that would reduce the number of units and square feet permitted under a literal interpretation of zoning densities

and intensities. Alternative 2's density should be revised to reflect a buildout based on those relevant policy restrictions.

Equally troubling, the description of Alternative 2 varies markedly throughout the EIR, rendering its analysis confusing and of questionable value. While at the outset the description in the EIR's text and Table 7.0-1 includes significant development in both counties, in other places the amount of development ranges from very little new development/retention of rural uses to variations on the amount of development in each county. In some versions, development occurs in Imperial County and in others it does not. A sampling of these inconsistencies includes the following:

- Alternative 2 – Buildout Under Existing Land Use and Zoning Designations. Assuming the highest density allowed by the applicable general plans, the FEIR assumes this alternative would allow 9,532 residential units and a range of commercial square footage from 572,814 to 1,278,485. FEIR at 7.0-82
- Table 7.0-1 purportedly provides a statistical analysis for Alternative 2 based on existing land use designations. The Table shows 657 units in Imperial County. FEIR at 7.0-6. By contrast, the description of Alternative 2 at page 7.0-130 states that there would be *no units* in Imperial County.
- “Alternative 2 would develop the project site under existing land use designations, which would permit the development of 2,954 residential units in Riverside County, 355 units in Imperial County, and 6,243 units on TMDCI lands.” FEIR at 7.0-31
- “Alternative 2 would not include development of residential units or commercial units within Imperial County, nor would it result in an increase in population in Imperial County.” FEIR at 7.0-140. “Alternative 2 would include the development of residential and commercial uses in Riverside County but not in Imperial County.” FEIR at 7.0-140.
- “Based on these [existing] land use densities, this Alternative [2] would develop 6,971 residential units and 139,392 to 4,608,648 square feet of commercial uses in Riverside County and no residential or commercial use development in Imperial County.” FEIR at 7.0-144.
- “Under Alternative 2, development would occur in accordance with the existing general plan designations and zoning on non-tribal lands in Riverside and Imperial Counties, but no development would occur on tribal lands.” FEIR at 7.0-108.

- “[Under Alternative 2] the area would remain designated rural in nature and the existing land use designations and zoning would remain. Under this alternative, the area would continue in agricultural uses. As permitted under existing zoning, future development would provide for very little density increase (1 unit per 2 acres) and thereby would not create sufficient population to encourage new industry and employment. The existing agricultural related jobs would most likely continue.” FEIR at 7.0-181. “While some new housing (1 unit per 10 acres on average in Riverside County) may develop, it would most likely be very low density and not encourage subdivisions that would provide for a range of housing types and the ability to include affordable units.” FEIR at 7.0-181.

As shown above, the description of what constitutes allowed development under the current General Plans varies tremendously depending on what impact the EIR is analyzing. A consistent description of Alternative 2 must be used as a basis to analyze all impacts.

In addition, Alternative 2 is *not* consistent with the applicable plans as the EIR claims. The FEIR itself admits that this Alternative would require an amendment to the Riverside County General Plan:

“The existing land use designations for the portion of the site under the jurisdiction of Riverside County (3,175 acres) include Agriculture, Commercial Tourist, Open Space and Public Facilities. The estimated population [that] could occur under these designations as permitted by the General Plan and associated zoning would be approximately 317 residents. Further, the portion of the site lands (769 acres) are under the jurisdiction of TMDCI and designated Agricultural, Cultural, Central Business, Recreation and Light Industrial, and have limited potential for future residential development. *Alternative 2 would change the land use designations for both the Riverside County and TMDCI lands.* The future population growth under Alternative 2 would be a substantial increase over the existing land use designations and as such, it could potentially conflict with or obstruct implementation of the air quality plans because the growth is unanticipated for the project site.” FEIR at 7.0-95 (emphasis added).

Similarly, the existing land use designations for the Imperial County portion of the site allow no new residents or future residential development. FEIR at 7.0-96.

It is thus clear that the applicable County general plans allow very limited development on the Project site area. In particular, the Riverside County Agriculture designation was established to conserve productive agricultural lands. Similarly,

Imperial County's designation of Open Space/Recreation/Preservation is intended to cover lands that are essentially unimproved and characterized by low intensity human utilization. Table 6.9-1 presents the permitted zoning densities and intensities for each portion of the site, without taking into consideration policies and other applicable plans, such as the MSHCP, that could further affect the location and/or amount of development that would actually be allowed.<sup>9</sup>

The EIR provides a contradictory account of Alternative 2's consistency with these planning documents. In some places, the EIR states that Alternative 2 would change the land use designations for the Project site. *E.g.*, FEIR at 7.0-96 ("Alternative 2 would change the land use designations for both the Imperial County and TMDCI lands"). By contrast, in other analytical discussions, including those related to construction emissions, the FEIR states, "Alternative 2 would result in the buildout of residential and commercial uses as permitted under existing land use designations." FEIR at 7.0-97

Finally, the analysis of Alternative 2's impacts as compared with the existing environment and the proposed Project is confusing and incomplete. Impacts analyzed assuming the Alternative is similar to the proposed Project find impacts to be similar to the Project. FEIR at 7.0-31 ("Since Alternative 2 would require *no* amendments to land use plans, impacts would be similar to but slightly less than those for the proposed project in Riverside and Imperial County.") (emphasis added). On the other hand, those impact discussions that assume little development under this Alternative find impacts to be far less than those generated by the Project. The majority of impact analyses assume that Alternative 2 would be similar in project area and development to the Project. "The proposed project and Alternative 2 would occupy the same project site and would include similar uses." FEIR at 7.0-122. "If non-tribal lands in Imperial County were developed with low density residential uses [under Alt 2], the resulting impacts to biological resources would likely be less than those under the proposed project." FEIR at 7.0-109-110.

For all these reasons, the EIR fails to analyze an alternative that is consistent with the applicable General Plans, Tribal Plans and Zoning.

**B. The EIR Fails to Describe and Analyze Other Feasible Alternatives.**

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<sup>9</sup> The Riverside County portion of the project site is located within the MSHCP and adjacent to the Santa Rosa San Jacinto Mountains Conservation Area. The MSHCP provides land use adjacency guidelines to reduce the effects of urban development near conservation areas.



**1. Purchase of Development Rights Alternative.**

The FEIR fails to identify feasible alternatives, including a “purchase of development rights” option, that would “soak up,” or eliminate, other development rights in the area rather than adding further unplanned growth. Such an alternative would address the fact that the Project plus existing development will exceed growth projections. FEIR at 6.12-53. It would also address the County’s own goals of encouraging sustainable development in accordance with AB 32 and SB 375. As the EIR itself states, “implementing a compact, sustainable pattern of development, future development, including the proposed project, would assist the county in meeting emissions reductions goals set forth in AB 32 and SB 375 in a manner not easily or readily attained through typical scattered development patterns.” FEIR at 6.12-53. The EIR also concludes:

“Because the project would increase GHG emissions by over 237,000 [projected] metric tons of carbon dioxide equivalents per year at buildout, the proposed project could potentially impede the State of California’s ability to comply with the GHG reductions mandated by the California Global Solutions Act (AB 32). Furthermore it is anticipated that the project would also potentially interfere with the region’s ability to meet the regional land use planning GHG reduction targets that are expected to be implemented under Senate Bill 375.” FEIR at 8.2-4.

The Project can contribute to the achievement of AB 32 and 375’s goals only if it succeeds in “offsetting” its own impacts and those of other planned development by reducing overall development potential – particularly rural and suburban development scattered throughout the region. Accordingly, the EIR should examine an alternative that conditions Project approval on the purchase of significant development rights in the area, such as the 18,000 lots/other dormant master plans described in the cumulative impact section. *See* FEIR at 5.0-2, 5.0-6. Such an alternative would address the Project’s significant impacts to open space and agricultural land, its massive greenhouse gas emissions, and other impacts by eliminating low density development that is even more environmentally damaging.

An example of such a scenario is the City of Livermore’s “transfer of development credits” program. This program requires all projects above a certain “baseline density” to purchase TDC’s or pay an in-lieu fee to a local land trust to purchase such development rights and retire them. *See* Exhibit 2, pp. 3-14 to 3-17 and 3-56 to 3-60. The Livermore program is inter-jurisdictional, with credits located outside the City and in the County of Alameda. Another example is the Tahoe Regional Plan requirement that for new “land coverage,” existing coverage must be retired either through purchase or other means. *See*

Exhibits 4-6. These examples offer an approach for Travertine whereby the Project occurs only if equivalent or greater development rights in the region are purchased and retired.

**2. Renewable Energy and Recreation as Part of Plan Consistency Alternative.**

According to the FEIR, “[t]he Salton Sea includes a wide variety of resources. Renewable energy opportunities in the form of wind, solar and geothermal abound.” FEIR at 8.3-5. Yet, the FEIR fails to evaluate an alternative that would include development of renewable energy on the Project site. Such an alternative could be capable of producing revenue much sooner than the proposed Project, and could avoid the costs and downsides associated with the Project (*e.g.*, lack of infrastructure, issues with locating tens of thousands of people near the declining Salton Sea, etc.). A revised document should include analysis of such an alternative.

**3. A City-Centered Alternative.**

In light of the significant impacts the Project will have on numerous resources, the County must carefully consider all feasible alternatives. In particular, the FEIR should analyze how much growth could be accommodated on existing “infill” lots in urban areas of the County as well as in cities.

According to the FEIR, “A large percentage of the population in the Coachella Valley in Riverside County is concentrated in the cities of Desert Hot Springs, Palm Springs, Cathedral City, Rancho Mirage, Indian Wells, Palm Desert, La Quinta, Indio and Coachella.” FEIR at 6.9-5. A number of unincorporated communities also exist, including the North Shore resort area which is largely undeveloped. FEIR at 6.9-6. Also according to the EIR, “[w]hile cumulative growth in the ECVAP area would not exceed growth forecasts for the area, the cumulative growth forecast shown in Figure 6.12-4 could be accommodated within existing land use designations and would not require the designation of other land for residential development.” FEIR at 6.12-53.

Despite admitting that current zoning could accommodate all planned growth, the FEIR fails to analyze whether the population increase due to the Project could be accommodated within urbanized unincorporated communities or existing cities. It is reasonable to assume that such an alternative, by focusing on infill of existing cities and urban areas, could result in far lower VMT and GHG emissions.

**VIII. The Project Conflicts with the Riverside County and Imperial County General Plans, the Eastern Coachella Valley Area Plan, and Other Relevant Plans; and the EIR Fails To Adequately Analyze These Inconsistencies.**

The state Planning & Zoning Law requires that specific plans be consistent with duly adopted general plans. Govt. Code § 65454. In addition, CEQA requires agencies to analyze the consistency of a project with every “applicable land use plan, policy, or regulation of an agency with jurisdiction over the project.” Guidelines Appx. G § X(b). The failure to accurately and fully analyze such consistency renders an EIR legally deficient.

Here, the EIR fails to accurately and fully analyze the consistency of the Project with applicable plans, thereby violating CEQA. In addition, Specific Plan 375, which implements the Project, is inconsistent with various binding, relevant policies in the Riverside County and Imperial County General Plans and Eastern Coachella Valley Area Plan. Under the Planning and Zoning Law, the County may not approve the Project due to the inconsistencies with Riverside County’s General Plan.

**A. Riverside County General Plan.**

**1. Policy LU 2.1: “Provide a land use mix at the countywide and area plan levels based on projected need” FEIR at 6.9-51.**

The FEIR fails to actually analyze whether the Project will meet “projected need.” Although it states that the Project will “assist[] the County in accommodating projected future growth,” the FEIR fails to state whether this amount of housing and employment is “needed.” This omission notwithstanding, the Project unequivocally is *not* based on projected need; rather, the Project’s 16,655 residential units far exceed Riverside County’s (and Imperial County’s) planned need for the area. Indeed, as the FEIR admits elsewhere in the document, there are “18,840 recorded residential lots within the Imperial County communities of Desert Shores, Salton Sea Beach, Vista del Mar, and Salton City [that] . . . have been recorded for some years, *but remain undeveloped due to a lack of demand.*” FEIR at 5.0-2 (emphasis added). The FEIR does not explain how there could be a need for this Project when there is no need sufficient to cause other developers to finish their already-permitted developments nearby.

Further, this Project was apparently proposed in the boom years around 2007. FEIR at 1.0-2 (NOP circulated in 2007). Since that time, foreclosure rates, not new housing, have been booming in Riverside County. In May, 2011, foreclosures “continued to represent a large portion of the resale market, at almost 44 percent in Riverside County.” See Leslie Berkman, *May Home Sales at 3-year Low*, The Press Enterprise, June 13, 2011, attached as Exhibit 9. This “competitive pressure of distress sales was especially hard on new home sales, which last month fell 12 percent in Riverside County . . . from a year earlier.” *Id.* There is clearly no need for expensive, new homes when people can’t even sell their current homes.

Moreover, the County's failure to provide a fiscal analysis as part of the FEIR makes it impossible for the public to know if the builder can even afford to build the proposed Project given that housing prices are currently so low in the County. See FEIR at 6.9-67 (fiscal analysis is being completed but is not yet finished). Without this analysis, the public has no way to know if there is any market demand for these homes, or if a few homes will get built and then the development will be abandoned, causing numerous environmental problems. See Josh Brodesky and Brian J. Pedersen, *Housing Headache: Unfinished Projects*, Arizona Star, May 3, 2009, attached as Exhibit 10 (half-finished developments cause many environmental, visual and other problems). The public, and especially County decisionmakers, should know what the fiscal impacts of this Project are on the County before approving the development of an entire new city. They must be informed whether fiscal projections show that homes can be built at prices that people can afford and whether there is a need for housing of this type and cost in the area.

**2. Policy LU 2.1: Concentrate growth near or within existing urban and suburban areas to maintain the rural and open space character of Riverside County" FEIR at 6.9-53.**

The FEIR frankly admits that "[t]he proposed project site is not located near or within an existing urban or suburban area." FEIR at 6.9-53. As such, the Project does not conform to the General Plan and may not proceed. Further, as explained elsewhere in this letter, the FEIR fails address this significant impact by seriously considering an alternative project location that is within or adjacent to existing developed areas, thereby violating CEQA.

**3. Policy LU 2.1: "Prevent inappropriate development in areas that are environmentally sensitive or subject to severe natural hazards." FEIR at 6.9-55.**

The FEIR fails entirely to analyze the consistency of the Project with this policy as it pertains to the Project's location adjacent to the failing Salton Sea, with its air quality, odor and other severe natural problems. FEIR at 6.9-55. In other parts of the FEIR, the document admits that "[u]ntil a stable water level is reached, it is unlikely that development in Planning Areas 3-9 and 3-10, the location of the proposed marina and tourist-serving commercial uses, would proceed. Air quality concerns, especially those related to odor from fish kills, may also affect the timing of construction in these planning areas." FEIR at 6.9-43.

As such, the document admits that there are severe hazards related to the Salton Sea. Nevertheless, the FEIR nowhere conditions development on the successful restoration of the Sea or prohibits development adjacent to the Sea until such time as air

quality and odor issues have been abated. Thus, the FEIR is legally deficient due to (1) its failure to analyze this General Plan inconsistency issue, and (2) its failure to mitigate for any substantial impacts related to the inconsistency by conditioning Project construction—or at least construction of neighborhoods adjacent to the Sea – on successful funding and restoration of the Sea. Likewise, as described elsewhere in these comments, the Project should be conditioned on helping fund Sea restoration.

**4. Policy LU 3.1: “Provide the opportunity to link communities through access to multi-modal transportation systems.” FEIR at 6.9-56.**

The FEIR reaches far and wide to come up with a theory as to why the Project is consistent with this policy. The County’s final analysis, however, consists merely of grandiose hyperbole and wishful thinking; it is sorely lacking in any evidence of actual consistency. For example, the FEIR states that SR-86S will “allow the residents of the proposed project to travel to the nearby cities of Mecca and Salton City.” FEIR at 6.9-56. But the document fails to say how this freeway provides access to multi-modal transportation systems, as opposed to an opportunity just to use one’s own car. Further, the ability of Project residents to access the “cities” of Salton City and Mecca is of dubious value. Salton City is actually an unincorporated community with a population of less than 4,000, and nearly all of its former commercial businesses have vanished. *See* [http://en.wikipedia.org/wiki/Salton\\_City,\\_California](http://en.wikipedia.org/wiki/Salton_City,_California) (last visited July 18, 2011) (2010 census for Salton City listed population of 3763, and the following commercial enterprises have folded: Truckhaven Cafe, the Salton Bay Yacht Club hotel and restaurant, and the Holly House motel and restaurant). Likewise, Mecca is an unincorporated community with a population of approximately 8,700.

The FEIR also states that SR-86S has been designated as a Class 1 bikeway by the County, and claims that “bike paths [] allow for opportunities to use alternative modes of transportation to connect to other communities.” FEIR at 6.9-56. However, as the FEIR admits elsewhere, “[e]xternal non-motorized travel is expected to be negligible” and bike and pedestrian trips are expected to occur only internally to the Project. FEIR at 6.19-43. Thus, the FEIR is inaccurate in its characterization of bike paths as providing a link to external communities, and thus providing consistency with this General Plan policy. Given the extreme temperatures, foul odors, and poor air quality in the area, it is no wonder the FEIR assumes that virtually nobody will bike between the Project and adjacent communities.

Moreover, the FEIR fails to demonstrate that transit opportunities will be a reality; rather, it repeatedly describes transit options and routes as “potential,” or “suggested.” For instance, it states that “a *potential* fixed route bus service extension will connect the proposed project to the rest of the Coachella Valley. Local shuttles are also *suggested* for

the proposed project.” FEIR at 6.19-44 (emphases added). Interestingly, while the “transportation” section, quoted above, states that the bus service “will” connect to Coachella, the General Plan consistency section states that “a potential fixed route bus service extension would connect the proposed project to the rest of the Coachella Valley.” FEIR at 6.9-56. Regardless of semantics, it is clear that transit is still a gleam in the planners’ eyes, and not an enforceable, certain mitigation measure or a definite part of the Project. And even assuming the transit ever came to exist, the FEIR at page 6.19-2 states that a mere 1.6 percent of Project-related trips are expected to use transit. This miniscule allocation of transit trips fails to comply with the General Plan’s policies to encourage developments that actually, not theoretically, facilitate transit as a reasonable means of travel.

In sum, the FEIR’s failure to disclose the uncertain nature of transit connecting the Project with other local communities renders the FEIR’s analysis of consistency with LU Policy 3.1 inadequate. Further, the Project, with its hortatory transit goals rather than real transit options, clearly conflicts with this policy, in violation of state Planning and Zoning law.

**5. Policy LU 6.4: “Retain and enhance the integrity of existing . . . open space areas by protecting them from encroachment of land uses that would result in impacts from noise, noxious fumes, glare, shadowing, and traffic.”**

The FEIR states that “[n]o encroachment upon the Anza-Borrego Desert State Park or Santa Rosa and San Jacinto Mountains National Monument would occur with project implementation.” FEIR at 6.9-64. This is clearly false, and as such, the FEIR fails to present an accurate and complete analysis of the Project’s consistency with this policy. As described in prior comments submitted by the Sierra Club and the Center for Biological Diversity, the Project will have impacts on adjacent and nearby open space and park areas due to noise, litter, the impact of domestic pets on wildlife and plants, and the probable blazing of new trails through park areas, among other things. *See* FEIR at 2.0-70 – 71. Indeed, the County previously responded to the Sierra Club’s comments by *admitting* that impacts to adjacent park areas, including Anza Borrego’s wilderness area, “*would be significant and unavoidable.*” FEIR at 2.0-86 (emphasis added). As such, the FEIR is internally inconsistent regarding the Project’s impacts on adjacent open space, and as such is legally deficient. Moreover, the Project’s failure to protect adjacent open space lands from the Project’s impacts renders the Project inconsistent with this General Plan policy, in violation of the Planning and Zoning Law. *See* FEIR at 2.0-70 – 71 (describing Project’s impacts to adjacent parks).

**6. Policy LU 9.2: “Require a fiscal impact analysis for specific plans . . .”  
FEIR at 6.9-67.**

The FEIR is internally inconsistent regarding whether a fiscal impact analysis has been done. On the one hand, it states that the fiscal analysis is not yet finished. FEIR at 6.9-67 (“[a] fiscal analysis is being completed to assess fiscal impacts.”); *id.* at 6.9-83 (stating that a future fiscal analysis “will show that revenue from property tax, sales tax, hotel room tax, and required fees, exactions, and assessments, will fully offset the cost of providing public services and infrastructure . . .”). But in other places, it states that “[t]he proposed project has completed a fiscal analysis to evaluate impacts.” FEIR at 6.9-83, 6.9-78 (“A financial impact analysis of the project has been completed.”); FEIR at 2.0-497 (“An FIA for Riverside County has been prepared by Development Planning and Financing Group, Inc. and entitled “Fiscal Impact Analysis for the Travertine Point Specific Plan” on June 24, 2010.”). This discrepancy renders the FEIR inadequate as an informative document.

Regardless, if a fiscal analysis has already been completed, it has not been included as part of the FEIR as it should be. *See, e.g.*, FEIR at 6.9-83 (without a fiscal analysis, there is no evidence to support the FEIR’s conclusion that “revenue from [various] tax[es] . . . will fully offset the cost of providing public services and infrastructure . . .”). Moreover, the apparent failure to have a final fiscal impact analysis at this late stage of Project consideration flies in the face of County Code section 17.08.090, which requires an application for a Specific Plan to include, “[a] program of implementation measures including regulations, programs, public works projects, *and financing measures necessary to*” pay for “major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area . . .” (emphasis added); *see also* Govt. Code § 65451(a)(4) (requiring specific plans to include financing measures necessary to carry out the plan’s purposes).

Here, the need for a fiscal analysis is obvious: there is no indication that financing measures are in place to pay for the Project’s necessary infrastructure. Indeed, the FEIR makes clear that the County has no idea how the Project will actually provide funding for necessary infrastructure. As the FEIR admits, “provision of public services associated with the specific plan area *could* occur through a combination of several financing mechanisms,” but no mechanism has yet been selected. FEIR at 3.0-40 (emphasis added). As such, there is no substantial evidence to support the FEIR’s assumption that necessary infrastructure will be built. For example, the FEIR blithely assumes that funding for such infrastructure as wastewater treatment and roads will magically appear, without providing a shred of evidence that it is financially, legally, politically and practically feasible to use any of the possible financing mechanisms listed in the FEIR.

*See, e.g.*, FEIR at 6.21-19 (mentioning many possible financing mechanisms for wastewater treatment, including “developer funding,” but not stating whether the developer has such funds or other methods are feasible); 1.0-33 (applicant has “identified *potential* funding sources” for improvements to SR 86, but Riverside and Imperial Counties have no regional program for improving or collecting fees to improve SR 86. “Therefore, the ability to provide future financing of improvements is not known”) (emphasis added).

The County cannot find consistency with a General Plan policy that requires Specific Plans to include a fiscal impact analysis until the fiscal impact analysis has actually been completed. Even if it has been completed, it is not a part of the FEIR, as it should be. As a matter of state Planning and Zoning Law, the Project is currently inconsistent with Policy LU 9.2 and cannot be approved. As a CEQA matter, the FEIR is deficient for failing to include a fiscal impact analysis that would provide evidence that the Project will meet its numerous fiscal obligations in terms of paying for infrastructure. Without this evidence and analysis, the public and decisionmakers are left to guess whether approval of this massive new city will cause severe financial strain on the County by burdening its infrastructure without paying its own way.

**7. Policy LU 25.2: “Protect major public facilities, such as . . . airports, from the encroachment of incompatible uses.” FEIR at 6.9-72.**

As explained elsewhere in this letter, the Navy operates an air base to the south of the Project, from which squadrons of military jets take off and land hundreds of times every day. Two flight training paths from the airport cross directly or nearly directly over the Project site, and the jets are allowed to fly within 200 feet of the ground. Placing a new city of 40,000 people directly underneath the flight paths of the military planes will undoubtedly cause tension, and residents can be expected to pressure their elected officials to change the flight patterns, limit the hours of operation for the flights, or otherwise restrict the flights. Clearly, residential neighborhoods, schools and other noise sensitive receptors are incompatible with low-flying military jet routes. The FEIR’s failure to analyze this inconsistency renders it inadequate under CEQA. The Project’s failure to protect the Navy’s major facility also renders the Project inconsistent with the General Plan, in violation of state Planning and Zoning Law.

**8. Policy C. 2.1: “Maintain the following countywide target Levels of Service: LOS “C” along all County maintained roads and conventional state highways . . .” with certain exceptions. FEIR at 6.19-138.**

The FEIR contains an internally inconsistent analysis of consistency with this policy. In the analysis of this specific policy, the document states that “[t]he proposed



project would maintain these levels of service by improving intersections and paying its fair share of improvement costs for state highway segments. The proposed project would therefore be consistent with this policy.” FEIR at 6.19-139. However, at other places in the FEIR, the document admits that “[c]ertain intersections would operate at less than acceptable levels of service at the completion of Phase 2” and Phase 3 and “[t]herefore, impacts would be potentially significant.” FEIR at 1.0-33. Likewise, as part of its cumulative impacts analysis, the FEIR admits that “[c]ertain intersections will operate at less than acceptable levels of service at buildout of the proposed project.” FEIR at 1.0-34. Also, at page 6.19-3 the FEIR states that levels of service (“LOS”) would be unacceptable at some intersections not only after construction of the second and third phases of the Project, but also after completion of the Project. “Mitigation identified would reduce some, but not all, impacts to a less than significant level in the long term at project buildout. Impacts would be significant and unavoidable.” This inconsistent analysis renders the FEIR’s analysis legally inadequate.

The FEIR also states that short-term impacts would be significant until “all mitigations are in place,” at which point impacts would be less than significant. FEIR at 6.19-133, 6.19-138. However, the FEIR fails to analyze the severity of impacts if the Project does not build out all the way and thus the mitigation measures are not all completed. For example, as described elsewhere in these comments, there is a significant likelihood that the Project will not be completed due to a variety of issues. In that case, not all mitigation is required to be completed, and the “short-term” impacts associated with the failure to meet LOS standards after the first few phases of the Project are built will end up being permanent impacts. *See, e.g.*, FEIR at 6.19-133 (Project may be halted after 12,787 units are built).

Regardless of the failure to analyze the issue completely, the Project clearly contradicts Policy C 2.1, which requires the County to *maintain* specific levels of service, not to achieve them at some future date.<sup>10</sup> As the FEIR admits, these levels of service will not be maintained at all intersections at all times. The Project therefore conflicts with this policy. The FEIR violates CEQA because it fails to acknowledge this inconsistency. *See* FEIR at 6.19-5 (“The proposed project conforms to existing plans and would not conflict with policies or programs. Impacts would be less than significant.”). The Project also violates state Planning and Zoning law due to this inconsistency. This

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<sup>10</sup> In addition, the Project violates the parallel policy of the Eastern Coachella Valley Area Plan, Policy 11.2, which states: “Maintain the County’s roadway Level of Service standards as described in the Level of Service section of the General Plan Circulation Element.”

issue is virtually identical to the Orange County policy at issue in *Endangered Habitats League, Inc. v. County of Orange*, 131 Cal.App.4th 777, 783 (2005). There, as here, the EIR found that some roadway segments and intersections would not meet required LOS standards due to a project, and the court stated that “[i]t is clear the project is inconsistent with the general plan’s traffic service level policy . . . [and t]he approval of the [] plan . . . must be set aside.” *Id.* at 783. Moreover, as explained elsewhere in these comments, this inconsistency is not adequately mitigated because there is no assurance that the Project will pay its fair share toward the necessary roadway improvements. *See* FEIR at 1.0-33 – 34 (funding for improvements is not assured).

#### **9. Agricultural Foundation Amendment Policy.**

Recognizing that agriculture is one of the mainstays of Riverside County’s economy, the County has imposed strict policies to protect agricultural land from being converted into non-agricultural uses. Of particular relevance, the General Plan allows only 7% of land designated as “agriculture” within the Eastern Coachella Valley and Western Coachella Valley Area Plans to be converted to other designations within a 2 ½ year planning period. FEIR at 6.2-8. Once this limit is reached within a planning period, the Board and a special Agricultural Task Force must make special findings that the conversion is justified. FEIR at 6.2-9.

The FEIR acknowledges these requirements, and admits that the Project would lead to the conversion of 4.9% of all designated farmland in the Coachella Valley.<sup>[1]</sup> However, instead of calculating, or even estimating how much other land within the Coachella Valley is being converted from agricultural designations within the current 2 ½ year planning period, it merely states that “the exact number of acres that have moved from the Agricultural Foundation is not available . . . .” FEIR at 6.2-72. This bare conclusion, with no supporting facts, is hardly credible, much less sufficient to satisfy CEQA’s requirement that the County find out and disclose all the information that it reasonably can. Even if the County does not have exact numbers, it must make an effort to disclose the approximate numbers. *See Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1368-70 (lack of precise method for measuring impacts does not excuse agency’s failure to “find out and disclose all that it reasonably can”) (quoting CEQA Guidelines § 15144).

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<sup>[1]</sup> The Project would convert 2060 acres of land designated as agricultural in the General Plan, as compared to 42,090 acres of agricultural land in the Coachella Valley. 2060 is 4.9% of 42,090.

More importantly, available evidence contradicts the County's bare assertion that it lacks the necessary information. For instance, the FEIR describes other development projects in some detail, and shows that there are at more than 30,000 other homes, plus tens of thousands of square feet of commercial and industrial development, planned in the immediate area. FEIR at 5.0-6 – 9. The FEIR's list of projects includes Mecca Specific Plan 0037, Panorama Specific Plan, and Thermal 551. FEIR Table 5.0-1. The Mecca development project, under General Plan Amendment (GPA) No. 1023, changes the agricultural designation for 80-90% of a 2934 acre site to various residential, commercial, and public facilities designations. Exhibits 11, 12. Mecca was approved on November 25, 2008. Exhibit 11. Similarly, the Panorama development project, under GPA No. 826, converts 507 acres of agricultural land to community development land. Exhibit 13. Panorama was approved in June 2009. Exhibit 14. In addition, the Thermal 551 development project, under GPA No. 846, would change the agricultural and light industrial designations of approximately 612 acres to residential and other non-agricultural designations. Exhibit 15. Thermal 551 was tentatively approved on July 26, 2011. Exhibit 16. Assuming, as is typical of the area, that the majority of the land is agricultural, Thermal 551 would convert about 500 acres of agricultural land.

The aggregate agricultural land converted by these three projects is therefore approximately 3500 acres of land. Adding the 2060 agricultural acres to be converted by the Project yields a total of 5560 acres, or 13% of the agricultural land in the Coachella Valley, nearly double the 7% allowed by the General Plan. As shown in Figure 5.0-1 of the FEIR, Mecca, Panorama, and Thermal 551 are all a short distance from the Project, and thus, the cumulative impacts of the change in agricultural designations would be quite significant. Moreover, this calculation does not even account for the numerous other development projects in the area, which will also undoubtedly convert agricultural land. *See* FEIR at 5.0-6 – 9; Exhibits 11-16 (describing other area projects). The County's failure to make any attempt to disclose this information violates both CEQA and its own General Plan.

#### **B. Eastern Coachella Valley Area Plan**

This area plan, which is part of the County General Plan, acknowledges that some new towns and planned communities will play a role in area growth. However, the plan contains strict, mandatory requirements to ensure that new towns, such as the Project, are contained, sustainable, and have all the necessary infrastructure. The Project is blatantly inconsistent with a number of these mandatory policies in violation of the Planning and Zoning Law, and the FEIR fails to accurately analyze these inconsistencies in violation of CEQA.

1. **Policy 2.3: “Planned community proposals may have urban characteristics . . . but also will have a rigid and permanent urban boundary.” FEIR at 6.9-73**

The FEIR states that “[t]he proposed project would have a compact urban form with defined limits to development to avoid sprawl.” FEIR at 6.9-74. However, this conclusory statement does not show that the Project is consistent with the policy, which requires a “rigid and permanent urban boundary.” In reality, the Project contains no rigid or permanent urban boundary, even though it is a planned community. On the contrary, the FEIR admits that the Project may induce growth in the surrounding area, and fails to create an urban boundary or other measure that would limit adjacent and nearby growth. For example, the FEIR states that the Project will bring infrastructure services such as electricity, sewer and water to the area, and that “undeveloped properties near the proposed project site could connect to these facilities in the future.” FEIR at 8.3-4. Likewise, the Project requires, and would help fund, expansion of SR-86, and “expansion of SR-86S would support development within the vicinity of the project site.” *Id.* Moreover, “infrastructure to be installed by the project for sewer will be sized to serve future projects in the area. Therefore, the project could be considered growth inducing because it would install sewer collection facilities and eliminate existing septic system constraints, which will make it easier to accommodate future growth.” FEIR at 8.3-5.

This policy is meant to further the County General Plan’s vision of ensuring that communities are separated and do not merge into the type of sprawl common in Los Angeles and other areas. Without a clear and permanent urban growth line, the Project fails to conform to the area plan and is prohibited under state Planning and Zoning law. Further, the FEIR fails to correctly analyze Project consistency with this policy, or even come to a conclusion of consistency. As such, it violates CEQA. (For the same reasons, the FEIR fails to comply with CEQA’s requirement for analysis of a project’s growth-inducing impacts. *See* CEQA Guidelines § 15126.2(d).)

2. **Policy 2.3: “The proposed community must be located within a district that provides water and sewer services or water and sewer district has agreed to annex and serve the project; and there is an agreement that such services will not be expanded beyond the limits of the proposed community.” FEIR at 6.9-74.**

The FEIR improperly analyzes the Project’s consistency with this policy’s requirement that new services not be expanded beyond the limits of the project site. It states that “[e]xisting infrastructure and service districts would be extended/annexed to serve the project site when required. Service providers would ensure that such services will not be expanded beyond the limits of the project site.” FEIR at 6.9-74. However, in

other places, the FEIR frankly admits that the Project will bring infrastructure services such as electricity, sewer and water to the area, and that “undeveloped properties near the proposed project site could connect to these facilities in the future.” FEIR at 8.3-4. Indeed, the FEIR unequivocally states in its analysis of growth-inducing impacts that “[t]he infrastructure to be installed by the project for sewer *will be sized to serve future projects in the area.*” FEIR at 8.3-5; *see also* FEIR at 6.21-22 – 23 (implying that the modular wastewater treatment plant required by the Project may be sized to accommodate other developments: “The applicant’s financial responsibility for these facilities is only for those components of the wastewater treatment facilities necessary to provide wastewater treatment for the proposed project’s and its associated effluent.”).

In short, the FEIR provides no credible evidence that water and sewer services will not be expanded beyond the limits of the Project. On the contrary, all the evidence shows just the opposite. As such, the FEIR violates CEQA because it fails to provide a consistent and full analysis of this issue, and the Project violates state Planning and Zoning law because it is inconsistent with this mandatory, clear policy.

**3. Policy 2.3: “At least 50 percent of the proposed community must be devoted to open space and recreation.” FEIR at 6.9-75.**

This policy sets a clear, mandatory, and fundamental standard: new communities *must* devote 50% of their area to open space and recreation. The Project area occupies 4,918 acres of land; thus, this policy requires the Project to contain 2,459 acres of open space and recreation area. However, the FEIR admits that only “30.2 percent of the total acreage of the project site” (1,486 acres) is devoted to such uses. FEIR at 6.9-75. As such, the Project is 973 acres shy of the required amount of open space, and flatly violates this policy. *See also* FEIR at 1.0-127 (mitigation measure requires only 206 acres of park in Project).

Instead of addressing this blatant inconsistency head-on, the FEIR attempts to avoid the issue by stating that the Project’s lesser amount of open space and recreation area “would meet the recreational and open space needs of the community.” FEIR at 6.9-75. Even if this was true, it does not demonstrate the Project’s consistency with the mandatory policy. The FEIR tries to avoid the simple math by stating that, in addition to the 1,486 acres that will be devoted to open space or recreation, there may be private clubhouses, swimming pools and other activities, as well as the marina, that qualify towards the mandatory 50% figure. However, the FEIR fails to quantify the amount of acreage that such facilities may occupy. It is highly doubtful, and there is certainly no evidence to support the notion, that these private facilities will occupy 973 acres. Besides, as discussed elsewhere in these comments, there is no assurance that the marina will ever be built, as it is contingent on successful restoration of the Salton Sea.

If the County believes that the Project will meet the recreational needs of the community, it may amend the area plan to modify Policy 2.3. However, no such amendment is currently proposed. Thus, the Project clearly violates Policy 2.3 and may not be approved without either (1) substantially increasing the amount of open space and recreation areas proposed, or (2) modifying the Project to include other land outside the current Project boundaries that will be preserved as open space. In addition to this Planning and Zoning law violation, the FEIR also violates CEQA due to its failure to accurately analyze this inconsistency.

**C. Imperial County General Plan.**

Riverside County does not have the obligation or authority under the state Planning and Zoning Law to ensure that the Project is consistent with the Imperial County General Plan. However, as Lead Agency, Riverside County still must properly analyze the Project's consistency with Imperial County's General Plan under CEQA. The FEIR fails to adequately analyze the Project's numerous, blatant inconsistencies with Imperial County's General Plan. Instead, its analysis, which is both self-contradictory and nonsensical, is based on speculation and sleights-of-hand rather than on substantial evidence and reasoned analysis.

The EIR's analysis of the following Imperial County General Plan provisions is inadequate to satisfy CEQA's purpose as an informational document.<sup>11</sup>

1. **Objective 3.3: "Attain County growth and development patterns that are orderly, safe, and efficient utilizing appropriate financing resources." FEIR at 6.9-78.**

When analyzing consistency with this objective, the FEIR states that the Project "will not result in impacts on financial resources [and that a] financial impact analysis of the project has been completed." FEIR at 6.9-78. As described above, this appears to be simply false. No fiscal impact analysis has been completed yet, or if it has, it is not part of the FEIR. The County cannot adequately analyze the Project's consistency with this objective in the absence of a fiscal analysis that shows the Project's development pattern

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<sup>11</sup> In addition, these inconsistencies will render it impossible for Imperial County to approve the portion of the Project in that County, at least without rewriting the many goals and policies of its General Plan, which is unlikely to happen. Thus, the EIR must also analyze the probable impacts related to what will happen if Riverside County approves the Project but Imperial County does not.

will utilize appropriate financing resources. The FEIR's current analysis is flatly inaccurate, and violates CEQA for that reason.

**2. Objective 3.6: "Recognize and coordinate planning activities as applicable with the Bureau of Land Management (BLM), and the California Desert Conservation Plan." FEIR at 6.9-78.**

The FEIR states that "[a]ll planning activities would be coordinated with the BLM, California Desert Conservation Plan, and other responsible agencies and applicable land use plans." FEIR at 6.9-78. However, in section 9.0, the FEIR contains a list of "Organizations And Persons Consulted." FEIR at 9.0-1 – 9. Nowhere on this list is the BLM mentioned. Further, nowhere in section 6.9 (Land Use and Planning) does the FEIR analyze consistency with the California Desert Conservation Plan. Nor does the FEIR mention this plan in the biological resources section (section 6.4) or, as far as we can tell, anywhere else in the FEIR. Therefore, the FEIR's statement that "[a]ll planning activities would be coordinated with the BLM [and] California Desert Conservation Plan" appears to be blatantly false. At the least, there is no evidence in the FEIR that the County has so coordinated with the BLM or this plan.

The FEIR's failure to actually analyze the Project's consistency with the California Desert Conservation Plan renders it legally inadequate. CEQA requires agencies to analyze the consistency of a project with every "applicable land use plan, policy, or regulation of an agency with jurisdiction over the project." CEQA Guidelines Appx. G § X(b). Here, BLM clearly has jurisdiction over the Project due to its participation in developing and implementing the Coachella Valley Multiple Species Habitat Conservation Plan, and its status as an agency with jurisdiction over the Salton Sea. *See* FEIR at 6.4-7 (BLM participated in Coachella Valley Multiple Species Habitat Conservation Plan), 3.0-94 (BLM "may have project-level review requirements and/approvals . . . for activities and planning related to the Salton Sea."). Moreover, the Eastern Coachella Valley Area Plan specifically requires the County to consult with BLM on projects such as this. Therefore, the County's failure to consult and failure to analyze the consistency of the Project with the California Desert Conservation Plan renders the FEIR legally inadequate.

**3. Objective 3.8: "Utilize non-agricultural land as a resource to diversify employment opportunities and facilitate regional economic growth." FEIR at 6.9-79.**

The Project does not utilize non-agricultural land, but rather "would convert 333 acres of agricultural land in Imperial County to nonagricultural use . . . includ[ing] 266 acres designated Unique Farmland. FEIR at 6.9-76. As such, the Project is inconsistent with this objective. Further, the FEIR fails to actually analyze consistency with this

objective. Instead, its entire analysis of this policy states that “[t]he proposed project provides for a wide variety of employment opportunities associated with the land uses proposed. The plan incorporates substantial open space amenities to balance the urban uses proposed.” FEIR at 6.9-79. The FEIR’s failure to actually analyze consistency with this objective renders the document legally inadequate.

**4. The FEIR Fails to Properly Analyze Consistency With Imperial County Policies to Assure Positive Fiscal Impacts of Projects.**

Imperial County’s General Plan states that specific plans will be evaluated according to whether they will “have a positive fiscal and economic long-term impact for the County of Imperial.” FEIR at 6.9-83. The FEIR states that the Project will meet this criteria because “[a]n independent fiscal impact analysis and public facility financing study will show that revenue from property tax, sales tax, hotel room tax, and required fees, exactions, and assessments, will fully offset the cost of providing public services and infrastructure . . . .” *Id.* However, as described elsewhere in these comments, this analysis has not yet been done; thus, there is no assurance that the rosy fiscal projections will actually pencil out, and there is no evidence on which the FEIR can conclude that the Project is consistent with this policy. As such, the FEIR violates CEQA.

**5. The Project Flatly Contravenes Policies to Protect Farmland and Forbid Leapfrog Development.**

Imperial County’s General Plan contains strong policies forbidding leapfrog development. The Plan states: “It is a policy of the County that leapfrogging will not be allowed in the future. All new non-agricultural development will be confined to areas identified in the Agricultural Element of the Imperial County General Plan for such purposes or in Cities’ adopted Spheres of Influence, where new development must adjoin existing urban uses. *Non-agricultural residential, commercial, or industrial uses will only be permitted if they adjoin at least one side of an existing urban use . . .*” FEIR at 6.2-88 – 89 (emphasis added).

As a CEQA matter, the FEIR fails to properly analyze the Project’s consistency with this mandatory and clear policy. Instead, it provides an amusing, and wholly insufficient, analysis of why the Project is consistent with the policy’s mandate that non-agricultural development may only be permitted adjacent to existing urban uses. Specifically, the EIR states that

the land uses proposed by the Project within Imperial County would be developed at the later stages of the Project’s buildout and would therefore be adjacent to existing urbanized land uses within Riverside County, directly north of the Imperial County portion of the Project. Several



development projects in nearby areas have been approved by both Riverside and Imperial counties. A substantial portion of the approved residential uses in nearby areas are presently undeveloped; however, once they are developed, the proposed project would be adjacent to these, and leapfrog development would not occur.

FEIR at 6.2-88 – 89.

In other words, once a portion of the Project site is developed, the rest of it will be adjacent to an “existing” urban area. Clearly, such blatant “boot-strapping” is not what the policy intended. Instead, the Project must be viewed as a whole, and it will be approved as a whole. At such time as Imperial County considers the Project, there will be no existing, adjacent urban area. Because that is the only relevant time period for purposes of analyzing consistency with this policy, the Project flatly contravenes this mandatory policy. Similarly, the fact that there may be approved, unbuilt developments in “nearby areas” is also irrelevant. The EIR fails to state that those development projects are “adjacent” to the Project site, which is required under the General Plan policy. Moreover, the policy clearly states that non agricultural uses are “permitted adjacent to *existing* urban uses,” not planned or possible future urban uses. FEIR at 6.2-88 (emphasis added).

The EIR is also internally contradictory in its analysis of the Project’s impacts on agricultural land. As one example of the document’s internal inconsistency, the EIR states that the “development of the proposed project would not include agricultural land uses . . .” FEIR at 6.2-89. However, in the very next sentence, it admits “that agricultural activity does currently occur within the Imperial County portion of the Project Site . . .” *Id.* As further described below, the Project area in Imperial County clearly does contain current agricultural operations. Thus, the EIR’s partial reliance on the alleged non-existence of agricultural land on the Project site cannot support any finding of consistency.

6. **Goal 1 and Policy 1: “All Important Farmland, including categories of Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance . . . should be reserved for agricultural uses. . . . Agricultural land may be converted to non-agricultural use only where a clear and immediate need can be demonstrated, such as requirements for urban housing, commercial facilities, or employment opportunities.” FEIR at 6.2-87 – 88.**

The EIR fails to properly analyze the Project’s inconsistency with this policy in two ways. First, the EIR purports to find consistency with this policy by stating that the soil characteristics in the Imperial County portion of the Project site are such that the

agricultural value of the land is “not significant.” FEIR at 6.2-88. In essence, the EIR states that the area is not “important,” “prime” or other designated farmland and that the policy therefore does not apply. However, as the EIR admits on the previous page, “the proposed project would result in the loss of 266 acres of land designated as Unique Farmland which is 11.6 percent of the total amount of Unique Farmland inventoried in Imperial County.” 6.2-87. Thus, the EIR is factually inaccurate; not only will the Project convert important farmland in Imperial County, but it will convert more than 10% of the County’s “Unique Farmland.”

Second, the EIR does not even analyze the Project’s consistency with the policy’s actual mandate: that agricultural land may be converted only when there is a clear and immediate need for the conversion. The EIR does not attempt to make any such finding, or even analyze possible justifications. Indeed, no such finding could be made. The Project grossly exceeds the area’s housing needs and would provide far more housing than projected by current plans. Further, given that the Imperial County portion of the Project will be developed last, FEIR at 6.2-88 – 89, and that the Project has a 35-year timeframe for buildout, FEIR at 1.0-26, any housing in Imperial County will not be built for decades. Thus, this Project will not satisfy a “clear and immediate need” for housing and employment, even if there was such a need, which there is not.

**D. The FEIR Fails to Analyze Project Consistency with the Southern California Association of Government’s Compass Growth Vision.**

The FEIR mentions the Compass Growth Vision, admits that it is a plan with which the County must analyze consistency, and states that such an analysis can be found in section 6.12. FEIR at 6.9-13. However, the document does not actually analyze consistency with most of the Vision’s policies. See FEIR at 6.9-36 (naming policies with which the FEIR analyzes consistency, with the Compass Growth Vision not being among them). Rather, the FEIR merely compares the growth projections in the Vision with the growth of the Project. FEIR at 6.12-10 – 13. In reality, the Vision contains numerous relevant policies which the FEIR must analyze for Project consistency. Some examples include the Vision’s main principles, to “improve mobility for all residents,” to “foster livability in all communities,” to “enable prosperity for all people,” and to “promote sustainability for future generations.” See Southern California Association of Governments, *Southern California Compass Growth Vision Report*, June, 2004, excerpts attached as Exhibit 3. The failure to analyze the Project’s consistency with this plan renders the FEIR inadequate under CEQA.

**IX. Conclusion.**

For the foregoing reasons, we respectfully request that the County prepare a revised EIR that fully complies with CEQA and recirculate that new EIR to the public for review and comment. In addition, due to the Project's glaring inconsistencies with the Riverside County General Plan, approval of this Project would violate State Planning and Zoning Law.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



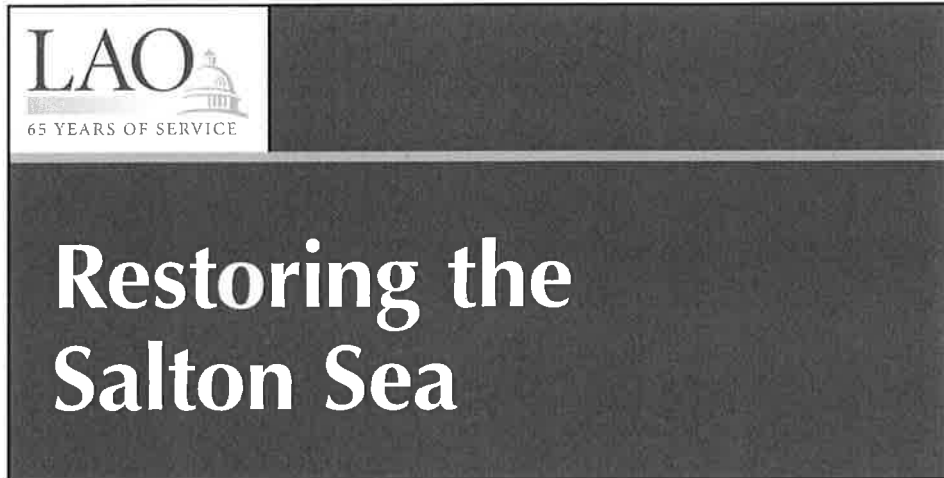
Erin B. Chalmers

Attachments:

- Exhibit 1: Legislative Analyst's Office Report, "Restoring the Salton Sea," January 24, 2008
- Exhibit 2: City of Livermore General Plan, Land Use Element
- Exhibit 3: Southern California Association of Governments, Compass Growth Vision Report, 2004
- Exhibit 4: Tahoe Regional Planning Authority Regulations, Chap. 20, Land Coverage Standards
- Exhibit 5: Tahoe Regional Planning Authority Regulations, Chap. 33, Allocation of Development
- Exhibit 6: Tahoe Regional Planning Authority Regulations, Chap. 34, Transfer of Development
- Exhibit 7: Bicycling and Walking in the United States, 2010 Benchmarking Report
- Exhibit 8: Air Quality and Land Use Handbook: A Community Health Perspective
- Exhibit 9: "Home Sales at 3 Year Low" *The Press-Enterprise*, June 13, 2011
- Exhibit 10: "Housing Headache: Unfinished Projects" *Arizona Daily Star*, March 3, 2009
- Exhibit 11: Riverside County Board of Supervisors Minutes, November 25, 2008
- Exhibit 12: Agenda Item No. 9.1, Riverside County Planning Commission, July 9, 2008
- Exhibit 13: County of Riverside Planning Department Staff Report, November 7, 2007
- Exhibit 14: Submittal to County of Riverside Board of Supervisors re Resolution No. 2009-118, June 1, 2009
- Exhibit 15: County of Riverside Planning Department Staff Report, October 31, 2007
- Exhibit 16: County of Riverside Board of Supervisors July 26, 2011 Agenda

August 10, 2011  
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cc: Joan Taylor  
Ralph Salisbury  
Carolyn Chase  
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ELIZABETH G. HILL • LEGISLATIVE ANALYST

The Salton Sea is a large inland lake in southeastern California. In the coming decades, the Sea will begin to dry up—impairing air quality, reducing the availability of wildlife habitat, and increasing the salinity of the remaining Sea. The State of California has legal and contractual obligations to restore the Sea, and the Secretary for Resources has recommended an \$8.9 billion restoration plan to the Legislature.

In this report, we discuss the history and current state of the Sea and the legal and policy reasons for restoring the Sea. We then recommend a number of steps the Legislature should take in considering how to proceed with the restoration. We believe these steps will enable the Legislature to make informed decisions regarding the Sea within the state's funding constraints. ■

### **Acknowledgments**

This report was prepared by Brendan McCarthy, and reviewed by Mark Newton. The Legislative Analyst's Office (LAO) is a nonpartisan office which provides fiscal and policy information and advice to the Legislature.

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## EXECUTIVE SUMMARY

**The Issue.** The Salton Sea (the Sea) is a large inland lake in southeastern California. In the coming decades, a transfer of Colorado River water from Imperial Valley to San Diego County will reduce the amount of agricultural runoff that currently flows into the Sea. Primarily due to this change in water use, the Sea will begin to dry up—impairing air quality, reducing the availability of wildlife habitat, and increasing the salinity of the remaining Sea, thereby killing off most aquatic life in the Sea. Due to a series of statutes and contractual agreements regarding the use of Colorado River water in Southern California, the state has an obligation to restore the Sea. After considering several alternative restoration plans, the Secretary for Resources has recommended an \$8.9 billion plan to restore the Sea. It is now up to the Legislature, working with the administration, to decide whether to proceed with the Secretary’s recommended alternative, modify it, or select a different approach.

**Scope of Report.** In this report, we discuss the history and current state of the Sea, the legal and policy reasons for restoring the Sea, the planning process that produced the proposed restoration plan, and the restoration alternatives that were considered, including the “Preferred Alternative” selected by the Secretary.

We do not recommend for or against the Secretary’s preferred restoration alternative—or any of the potential restoration plans. Assessing the technical differences between the various alternatives is beyond the scope of this report. Rather, we recommend a number of steps for the Legislature to take—including policy and fiscal issues to consider—prior to adopting a restoration plan. We believe these steps provide a framework that will allow the Legislature to make an informed decision about how to ad-

dress issues surrounding the Sea within the state’s funding constraints.

**Recommendation.** First, we recommend the Legislature set explicit policy priorities in statute for addressing environmental problems at the Sea. Specifically, we recommend the Legislature establish the protection of air quality and the preservation of wildlife habitat as the highest priorities for expenditure.

Second, we recommend the Legislature adopt a comprehensive plan at the outset of the restoration process. The restoration plan should reflect the Legislature’s funding priorities and be accompanied by a long-term financing plan that realistically considers who will pay for the restoration. For reasons that we discuss in detail in the report, we believe that the state’s General Fund will be called upon to pay for the vast majority of the costs of any restoration plan, as it is unlikely the federal government or local beneficiaries will provide significant funding. The restoration plan should also designate the appropriate governance structure for the restoration. We recommend the Legislature designate the Department of Water Resources (DWR) as the primary implementing agency for this purpose.

Finally, we recommend the Legislature consider funding interim measures to address priority issues in the near term. Until the Legislature is ready to proceed with a full-scale restoration plan, there are opportunities to adopt interim measures to address priority issues—such as air quality or wildlife habitat—in the near term. Adoption of interim measures would allow the Legislature to take the time necessary to carefully consider the complex and expensive issues surrounding the restoration of the Sea that we discuss in this report.

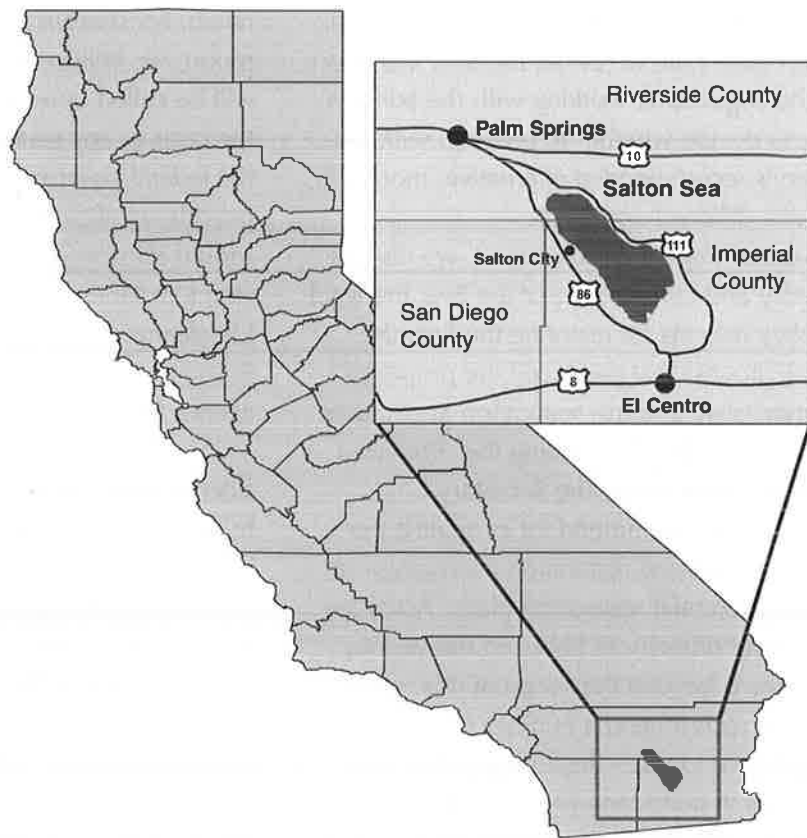
## HISTORY AND BACKGROUND OF THE SALTON SEA

**History of the Salton Sea.** The Sea is California's largest inland lake. It is located in southeastern California, in southern Riverside and northern Imperial Counties. (See Figure 1.) The Sea is a terminal lake, which means that it has no outlet to the ocean. Water flows into the Sea from agricultural runoff and river flows and leaves the Sea only through evaporation. Periodically over the past several thousand years, a change in the course of the Colorado River would spill water for months or years into the area now occupied by the Sea. Eventually, a subsequent change in the river's course would leave the lake without a significant source of water. Over several years it would dry up, leaving a dry lake bed. In 1905, Colorado River water overflowed from a new irrigation canal in the Imperial Valley and for several months this water flowed into the dry lake bed where the Sea now lies. In the decades since the modern Sea was created, agricultural runoff from farms in the Imperial Valley has fed the Sea, prevent-

ing it from drying up as had occurred in the past.

Today the Sea functions both as an important wildlife area and as an "agricultural sump" or drainage basin for agricultural runoff. The Imperial Valley has approximately 500,000 acres of farmland under cultivation, which is irrigated with water from the Colorado River. While Colorado River water is "fresh" and can be used for agriculture, its relatively high salt content

**Figure 1**  
**The Salton Sea and Vicinity**





can create long-term agricultural management problems. In order to prevent salt build-up in the soil, farmers must allow irrigation water to drain out of their fields to carry away the salt. In the Imperial Valley, an extensive system of drains and canals transports this agricultural runoff to the Sea.

Because the Sea has no outlet to the ocean, water that enters the sea can only leave through evaporation, leaving behind the salts. Therefore, the Sea is destined to become increasingly saline over time. While the Sea started off as a fresh water body in 1905, it is now saltier than the Pacific Ocean and will become even saltier over time. As discussed in detail below, the current and future salinity of the Sea has direct impacts on the fish and wildlife in the area.

**Wildlife in and Around the Salton Sea.**

While the Sea is a relatively new water body in geologic terms, it has become an important habitat area for a large number of birds. As shown in Figure 2, the Sea and surrounding areas are home to many species that are protected by state and/or federal law. As wetland habitat has been lost to development throughout California and northern Mexico, many bird species have come to rely on the Sea. More than 270 species of birds use the Sea on a regular basis. Hundreds of thousands of birds use the Sea as a stopover point on their annual migrations. Some species of birds—such as the double-crested cormorant—live at the Sea year round, while other species—such as snowy plovers, ruddy ducks, and snow geese—use the Sea as a stopover point on their annual migrations.

In past decades, people introduced several ocean-going fish species—such as oran-gemouth corvina, gulf croaker, and sargo—to allow for sport fishing at the Sea. For decades these introduced species thrived in the ecologi-cally productive waters of the Sea. However, as the Sea has become increasingly saline over time, the varieties of fish that live in the Sea have changed. Most of the introduced species have not been found by sport fisherman or by fish surveys since 2003.

**Figure 2  
Protected Species Found in or Around the Salton Sea<sup>a</sup>**

	Federally Listed Species	California Listed Species
<b>Fish</b>	Desert Pupfish	Desert Pupfish Razorback Sucker
<b>Birds</b>	Bald Eagle California Brown Pelican California Least Tern Least Bell's Vireo Southwestern Willow Flycatcher Yuma Clapper Rail	Bald Eagle California Brown Pelican California Least Tern Least Bell's Vireo Willow Flycatcher Yuma Clapper Rail  Arizona Bell's Vireo Bank Swallow California Black Rail Elf Owl Gila Woodpecker Gilded Northern Flicker Golden Eagle Greater Sandhill Crane Peregrine Falcon Swainson's Hawk Western Yellow-billed Cuckoo White-tailed Kite

<sup>a</sup> Includes species that are threatened, endangered, or fully protected as defined in law.

The only remaining fish species that is found in significant numbers is Tilapia. While this species has survived the increasing salinity in the Sea, the current population is estimated to be only 10 percent of the population that was present in the mid-1990s. The Department of Fish and Game (DFG) estimates that even Tilapia will not survive in the Sea once the salinity level reaches more than 60,000 milligrams per liter (mg/L) which is projected to occur by 2015. In the coming decades, only species that are adapted to very high salinities—such as Brine Shrimp—will be able to survive in the Sea. Even these salt-tolerant species will likely disappear when the salinity exceeds 200,000 mg/L. Figure 3 illustrates the increasing salinity of the Sea over time, including projections for continuing increases in future years, absent corrective action.

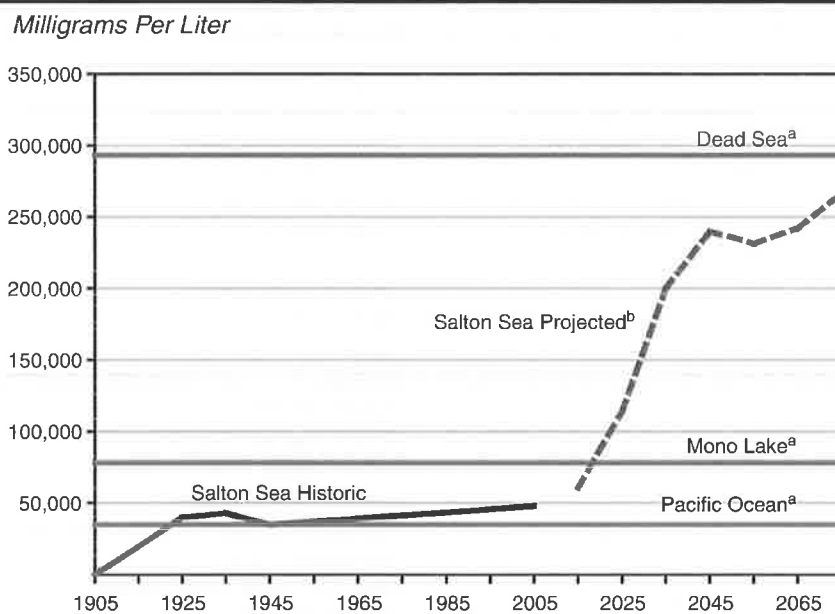
Many of the bird species found at the Sea—such as pelicans, double-crested cormorants, and black skimmers—rely on fish for their survival. As the Sea becomes too saline to support fish, these species are unlikely to survive in significant numbers in or around the Sea. However, not all bird species in the area eat fish from the Sea. There are bird species—such as the white-faced ibis—that eat invertebrates rather than fish. These bird species may not be

directly impacted by the initial disappearance of fish, but in the long term increasing salinity will also reduce their invertebrate food sources.

Finally, as the Sea recedes from the current shoreline, foraging habitat and nesting grounds such as existing islands will be left behind by receding water. The loss of these existing foraging and nesting areas may reduce birds' ability to find food and may also expose them to increased predation from land animals such as coyotes.

**Water Transfers Will Accelerate Sea's Increasing Salinity.** As was mentioned above, the Sea is naturally becoming more saline over time. This process will be accelerated by a water transfer agreed to in 2003, pursuant to an agreement between several public water agencies and the state regarding the use of Colorado River water. This agreement is referred to as the Quantification Settlement Agreement (QSA) and we

**Figure 3**  
**Salton Sea Salinity**



<sup>a</sup>Salinity levels for other water bodies are shown (at current levels) as constant for comparison only.  
<sup>b</sup>Projected salinity from *Salton Sea Ecosystem Restoration Program Draft Environmental Impact Report*.

discuss its background and relevance further in the next section. As part of the QSA, the Imperial Irrigation District (IID) agreed to transfer up to 300,000 acre-feet of Colorado River water per year to other Southern California water agencies. In the long term, the water for this transfer will come from improved agricultural water efficiency in the Imperial Valley, which in turn will reduce the amount of water flowing into the Sea. Currently, the amount of water flowing into the Sea and the rate of evaporation are roughly equal, which keeps the sea level fairly constant. However, as the amount of water flowing into

the Sea declines due to the water transfer, the sea level will drop (that is, the water will recede) and the salinity of the Sea will increase at an accelerated rate. While the water transfer began in 2003, IID is required to put “mitigation flows” into the Sea for 15 years or until a restoration plan is adopted. These mitigation flows are keeping the sea level in balance in the interim period while a restoration plan is developed. Ultimately, reduced inflows into the Sea will have wide ranging impacts on the Sea, which in turn could impact both human health and wildlife in the area.

## WHY RESTORE THE SALTON SEA?

***State’s Obligation Based on Contractual Agreements and Statute.*** As discussed below, the state’s obligation to restore the Sea, and its related financial obligation to pay for most of the restoration, has its basis in both contractual agreements and statute. The QSA, discussed in the text box (see next page), was an agreement between the state, the federal government, and a number of local water agencies that made fundamental changes to Colorado River water use in Southern California—changes which will directly impact the Sea. If not for the signing of the QSA, the federal Secretary of the Interior—the “watermaster” of the Colorado River—was prepared to institute immediate substantial reductions in California’s allocation of Colorado River water. Under the existing system for allocating Colorado River water, the water agencies that serve urban water users in Southern California have the lowest priority for Colorado River water. Therefore, if the Secretary of the Interior were to have ordered immediate cuts in California use of Colorado River water, urban Southern California water

users would have faced significant, immediate reductions in their water supply.

The heart of the QSA is a long-term water transfer (referred throughout this report as the “QSA water transfer”) that, by reducing the amount of water flowing into the Sea, will have negative environmental impacts related to the Sea. In order to facilitate the signing of the QSA, the state agreed to assume most of the financial responsibility both for mitigating these negative environmental impacts and, more generally, for the Salton Sea restoration effort. The Legislature enacted a package of legislation in 2003 to implement the QSA. This legislation, and a companion piece enacted in 2004 (see text box on page 10), spell out the financial responsibility assumed by the state, consistent with the QSA, and also establish a number of broad goals for the restoration effort.

In addition to the state’s above-noted legal obligation to restore the Sea, there are important policy reasons to restore the Sea, or at the very least, to mitigate some of the impending, adverse

environmental impacts of the QSA water transfer. These policy reasons are also discussed below.

***State's Financial Obligation to Restore the Sea.*** During the negotiations surrounding the QSA, a critical issue was the financial responsibility for any negative environmental impacts on the Sea from the water transfer. In order to

facilitate the signing of the QSA, the state (as a signing party to the QSA and in statute) agreed to assume most of the financial responsibility for the restoration of the Sea. The package of legislation implementing the QSA (hereafter referred to as QSA statutes, see text box on page 10) requires

### **THE LAW OF THE RIVER AND THE QUANTIFICATION SETTLEMENT AGREEMENT**

***Law of the River.*** As shown in the map, the Colorado River runs within or between seven western states before crossing the border into Mexico. Under a series of laws, treaties, and court rulings known collectively as the Law of the River, the various states and Mexico have been allotted portions of Colorado River water. California is allowed to use 4.4 million acre-feet per year. The federal Secretary of the Interior is the “watermaster” for the Colorado River and has the ultimate authority for allocating water supplies under the Law of the River.

In past decades, Arizona and Nevada did not use their full entitlements and therefore California was authorized to use up to 800,000 acre-feet per year more than its legal entitlement. As population has grown in Arizona and Nevada, California was required to reduce its historic overuse of Colorado River water. In the late 1990s, the Secretary of the Interior ordered California users of Colorado River water to devise a plan to reduce their use to the state's 4.4 million acre-foot entitlement or face an immediate reduction to that level. Due to the requirements of the Law of the River, the immediate impact of a reduction in the amount of water available to California would have fallen primarily on urban water users served by the Metropolitan Water District of Southern California (Met).

***Quantification Settlement Agreement.*** In 2003, after prolonged negotiations between the federal government and the water districts that have a right to Colorado River water within the state, a series of agreements were made between the federal government, the State of California, the Imperial Irrigation District (IID), Met, the Coachella Valley Water District, and the San Diego County Water Authority. These agreements are known collectively as the Quantification Settlement Agreement (QSA). Under the QSA and in conjunction with laws enacted by the Legislature, the various users of Colorado River water within the state agreed to reduce their use to the allowed 4.4 million acre-feet per year over several years. The agreements include a water transfer between IID and other Southern California water districts of up to 300,000 acre-feet per year for at least 35 years and the lining of the All American Canal to save an estimated 77,000 acre-feet per year. By transferring water out of the Imperial Valley, the QSA water transfer will reduce the amount of water available for agricultural use in the Valley. In turn, this will reduce the amount of water flowing into the Sea—further increasing salinity and causing the Sea's shoreline to recede.

that the state implement a restoration project that maximizes, to the maximum extent feasible, the following three objectives:

- Restoration of long-term stable aquatic and shoreline habitat for the historic levels and diversity of fish and wildlife.

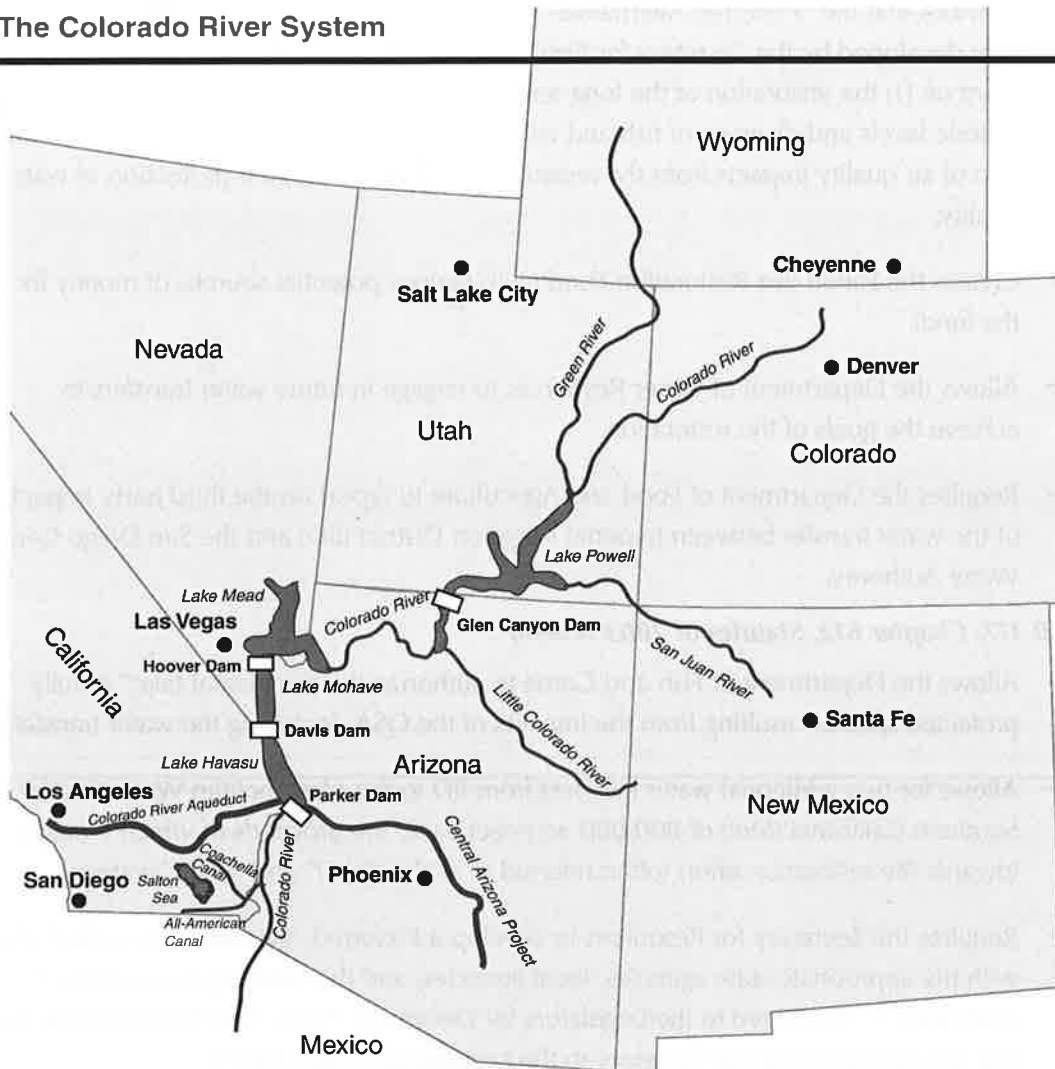
- Elimination of air quality impacts from restoration projects.

- Protection of water quality.

In addition to the QSA statutes, the state is a signatory to agreements that govern the water

**The Law of the River and the Quantification Settlement Agreement** *(continued)*

**The Colorado River System**



transfers relating to the QSA. As a signatory to these agreements, the state has a contractual obligation to mitigate the negative environmental impacts of the water transfers.

Beyond the contractual obligations, there are public-policy reasons for the restoration effort. In addition, there is considerable local interest in using the restoration of the Sea to spur economic

### **QUANTIFICATION SETTLEMENT AGREEMENT STATUTES**

In order to facilitate the implementation of the Quantification Settlement Agreement (QSA) discussed elsewhere in this report, the Legislature enacted a package of legislation, including:

***SB 277: Chapter 611, Statutes of 2003 (Ducheny)***

- Provides that the "Preferred Alternative" (the designated plan for restoring the Salton Sea) developed by the Secretary for Resources provide the maximum feasible attainment of: (1) the restoration of the long-term stable aquatic and shoreline habitat for the historic levels and diversity of fish and wildlife that depend on the Sea, (2) the elimination of air quality impacts from the restoration project, and (3) the protection of water quality.
- Creates the Salton Sea Restoration Fund (with various potential sources of money for the fund).
- Allows the Department of Water Resources to engage in future water transfers to achieve the goals of the restoration.
- Requires the Department of Food and Agriculture to report on the third party impacts of the water transfer between Imperial Irrigation District (IID) and the San Diego County Water Authority.

***SB 317: Chapter 612, Statutes of 2003 (Kuehl)***

- Allows the Department of Fish and Game to authorize the "incidental take" of fully protected species resulting from the impacts of the QSA, including the water transfer.
- Allows for two additional water transfers from IID to the Metropolitan Water District of Southern California (Met) of 800,000 acre-feet each, the proceeds of which would go towards the restoration effort (often referred to as the "(c)(1)" and "(c)(2)" water).
- Requires the Secretary for Resources to develop a Preferred Alternative, in consultation with the appropriate state agencies, local agencies, and the Advisory Committee. The study shall be submitted to the Legislature by December 2006. (The Preferred Alternative was submitted by the Secretary to the Legislature in May 2007.)

development and recreational opportunities in the surrounding communities. Below we discuss the objectives for the restoration.

**Protecting Air Quality.** Air quality in Imperial County and the Coachella Valley (eastern Riverside County) is poor. Neither area is “in attainment” for air quality standards for particulate

- Relieves IID of any liability from reduced inflows to the Sea due to any required water conservation efforts.
- Establishes an ecosystem restoration fee to be assessed on any future, non-QSA related water transfers out of IID’s service area.

**SB 654: Chapter 613, Statutes of 2003 (Machado)**

- Extends the time to spend a prior-year appropriation of \$235 million for the lining of the All American Canal (including the Coachella Branch) and groundwater recharge projects, with the conserved water going to Met.
- Creates a joint powers authority with the Department of Fish and Game and several local agencies in order to finance environmental mitigation costs relating to the QSA.
- Requires that costs up to \$133 million for mitigation of negative impacts of the QSA water transfer shall be paid by IID, Coachella Valley Water District, and the San Diego County Water Authority and that \$30 million shall be paid by the same agencies to the Salton Sea Restoration Fund. No further funding requirements for the restoration of the Sea by these agencies is required and all future costs to mitigate the impacts of the water transfer and restore the Sea shall be the state’s responsibility.

**SB 1214: Chapter 614, Statutes of 2004 (Kuehl)**

- Requires that the financing plan developed by the Secretary for Resources consider funds that are, or may be available, including the Salton Sea Restoration Fund, bond funds, federal funds, money available from an infrastructure financing district, and user or other fees.
- Directs the Secretary for Resources to assess the protection of recreational opportunities and the creation of improved local economic conditions surrounding the Sea. However, recreation and economic development would not be considered restoration goals on par with the previously stated goals of wildlife habitat, air quality, and water quality protection.
- Broadens the scope of the restoration plan to include the agricultural lands surrounding the Sea and the tributaries and drains that provide water to the Sea.

matter—meaning that these areas do not meet federal and state air quality standards designed to protect public health. The term particulate matter refers to microscopic solid and liquid particles floating in the air. Over time, particulate matter can become trapped in the lungs, causing asthma attacks, bronchitis, lung diseases, and can exacerbate existing heart conditions. Particulate matter is particularly dangerous to children and the elderly. In fact, nearly 20 percent of children and adolescents in Imperial County have asthma—one of the highest rates in the state.

If the sea level declines and the shoreline recedes, it will expose areas of dry lake bed—known as “playa.” In many areas, this playa is covered with fine sediments that were deposited at the bottom of the Sea over many years. Due to the high winds and arid climate around the Sea, it is likely the wind will pick up significant amounts of fine dust, increasing the amount of particulate matter in the air and further reducing the air quality in the Imperial and Coachella Valleys.

In addition to the likely adverse impacts on air quality from a decline in the Sea’s shoreline level, there will also be adverse air quality impacts from restoration activities themselves. Because all of the alternatives under consideration for restoring the Sea include significant construction activities, there will be large amounts of dust and soot created during the construction phase. Any restoration activities are required under law to minimize or eliminate the air quality impacts caused by the construction. These requirements, while potentially complicating the restoration effort and increasing costs, will prevent air quality from degrading even further. (It is important to note that none of the restoration alternatives is likely to significantly *improve* the existing air quality in the region.)

**Protecting Wildlife Habitat.** Since its creation in 1905, the Sea has become a key habitat area for many species, several of which are threatened or endangered and thus have protected status.

- **Bird Species.** There are several protected bird species—and very large numbers of individual birds—found in and around the Sea. (See Figure 2.) Protected bird species found in and around the Sea include brown pelicans, least terns, willow flycatchers, and yuma clapper rails. The Department of Fish and Game estimates that only 5 percent of the historic Central Valley wetland habitat remains today; the loss of wetland habitat in the Central Valley and along the coast has left migratory bird species with limited alternatives to the Sea.
- **Fish Species.** Desert pupfish, an endangered species under both the federal and state endangered species acts, live in creeks and drainage ditches around the Sea. While the pupfish do not live directly in the Sea, these fish are known to migrate between creeks and drainage ditches through the Sea’s shoreline waters. As the shoreline recedes and the remaining Sea becomes increasingly saline, these pupfish populations may become isolated from one another. This will reduce the genetic diversity of existing populations, which could make them less able to adapt to disease or other environmental stresses. It would also prevent existing populations from moving back and forth between habitat areas as conditions change. Both of these impacts could



reduce the species' long-term chance of survival.

Because there are federal and state listed endangered species in and around the Sea, there are regulatory requirements that restrict the "take" of these listed species (causing harm to the species) due to the QSA-related water transfer. At the state level, the QSA implementing legislation authorizes the Department of Fish and Game to allow the incidental take of endangered species due to the effects of the QSA and related water transfers—provided that ongoing management of those species continues to support the overall existing populations. Under federal law, the U.S. Fish and Wildlife Service has adopted a biological opinion on the QSA-related water transfer that allows the incidental take of federally listed species—providing that ongoing mitigation requirements are met by the Bureau of Reclamation and the IID (ongoing efforts separate from the restoration).

**Improving Water Quality.** The Sea is neither a source of drinking water nor irrigation water, due to its high salinity. However, the Sea's water quality will have a direct impact on its ability to provide wildlife habitat. There are three main aspects to water quality problems in the Sea: salinity, nutrients, and selenium.

The increasing salinity of the Sea will eventually destroy the fishery, eliminating the source of food for fish-eating bird species. For some years, salt-tolerant species such as Brine Shrimp will survive at the Sea, but ultimately the water will become too saline for even these species.

As agricultural irrigation water drains into the Sea from the surrounding farmland and as polluted water from the Alamo and New Rivers flows into the Sea, the nutrient levels in the Sea—particularly nitrogen—have grown extremely high.

Due to the high level of nutrients and the strong sunlight in the area, algal and bacterial production in the Sea is very high. In deeper waters, the decay of dead bacteria leads to the production of hydrogen sulfide. Periodically, this hydrogen sulfide is released from the deeper waters, consuming the oxygen in surface waters through a chemical reaction, as well as releasing noxious odors into the area surrounding the Sea. When oxygen in the surface water becomes depleted, extensive fish kills occur, with thousands of dead fish washing up on the shores of the Sea. While it is unlikely that these processes threaten human health or the long-term biological productivity of the Sea, these phenomena have had a significant, negative impact on recreational use of the Sea.

Finally, there are long-term concerns about the presence of selenium in the Sea. Selenium is a naturally occurring element that is necessary, in very small amounts, for biologic processes. However, in elevated levels, selenium has been found to cause significant birth defects and reproductive problems in wildlife. Colorado River water has elevated levels of selenium, which comes from eroding rocks upstream. There are concerns that as the selenium level in the Sea increases over time (since there is no outlet), the increased levels could compromise the reproduction of birds in and around the Sea. To date, there is no evidence that this has occurred, and in fact the level of selenium in the Sea water is currently relatively low, indicating that it has settled out into the sediments. However, as these sediments are uncovered by a receding shoreline, selenium contamination may become a greater concern.

In addition to the state's restoration process, the Regional Water Quality Control Board for the Colorado River Region is in the process of implementing plans—referred to as Total Maxi-

mum Daily Loads (TMDLs)—to address pollutants such as silt and other specific nutrients in the rivers and drainage canals that feed the Sea. (A TMDL is a planning and regulatory tool used by the state to reduce pollution in seriously impaired water bodies that do not comply with the requirements of the federal Clean Water Act.) Under these TMDLs, pollution dischargers—primarily Imperial Valley farmers—are required to reduce the amount of silt and nutrients flowing into drainage canals and streams that flow into the Sea. Over coming decades, these TMDLs should reduce nutrient levels within the Sea. It is not clear, however, whether the TMDLs alone will reduce nutrient levels enough to prevent future fish kills or hydrogen sulfide releases. While the regional board is also developing a TMDL for selenium, it has not yet determined whether it will do so for salt. In summary, the day-to-day regulatory activities of the regional board and the state’s overall Salton Sea restoration effort

will likely complement each other in addressing water quality issues in the Sea.

***Facilitating Recreation and Economic Development.*** In past decades, the Sea was a popular recreational area. Because of the warm winter climate, proximity to southern California cities, large size, and active fishery, the Sea was a popular recreational destination for fisherman and water sports enthusiasts. However, increasing levels of salinity have significantly reduced the presence of fish in the Sea. In addition, as the Sea has become increasingly nutrient-rich, the occurrences of fish die-offs and unpleasant odors have made the Sea a much less attractive destination for recreation. If the Sea were restored such that fishing and boating became more attractive, there would be significant recreational potential at the Sea. There is strong local interest in using the restoration of the Sea as a way to jumpstart recreation-based economic development in the area.

## THE RESTORATION PLANNING PROCESS

### **State, Federal, and Local Processes**

***Many Agencies Potentially Involved in Restoration.*** There are many federal, state, and local agencies that are, or may be, involved in the restoration to some degree. With respect to wildlife protection, the Department of Fish and Game and the federal Fish and Wildlife Service have been, and will continue to be, involved in efforts to protect wildlife and their habitat. In addition, the Wildlife Conservation Board is likely to be involved in land purchases that are necessary to facilitate the restoration. With regard to air quality, the local air districts (Imperial County Air Pollution Control District and the South Coast

Air Quality Management District), the State Air Resources Board, and the federal Environmental Protection Agency all have some jurisdiction over air quality issues in the region surrounding the Sea. Agencies involved with water issues include the federal Bureau of Reclamation and Department of the Interior, the Department of Water Resources, the Colorado River Basin Regional Water Quality Control Board, and the State Water Resources Control Board. Most of these agencies, and many others, sit on the Salton Sea Advisory Committee discussed below.

In order to develop restoration plans, planning processes have been established at each level of government, as we discuss below.

**State Process.** Legislation that implemented the QSA created a process for developing a Salton Sea restoration plan. Under this process, the Secretary for Resources has the responsibility to develop a preferred restoration plan and submit such a plan to the Legislature by December 2006. To this end, the Secretary for Resources has led a public process to create alternative restoration plans. These plans are included in the draft Programmatic Environmental Impact Report which was released in October 2006. This document includes information about all the restoration alternatives under consideration.

Throughout the restoration planning process, the Secretary has been advised by the Salton Sea Advisory Committee, a body created in statute that is made up of relevant federal, state, tribal, and local government agencies, as well as representatives of the local community and environmental groups. (See Figure 4 for a list of the Advisory Committee members.) The Secretary selected a Preferred Alternative and formally

recommended it to the Legislature in May 2007. While statute requires the Secretary to develop and recommend a Preferred Alternative, the authority to adopt and fund such a restoration plan, or an alternative plan, lies with the Legislature.

**Figure 4**  
**Members of the Salton Sea Advisory Committee**

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**Federal Agencies**

Bureau of Indian Affairs  
Bureau of Reclamation  
Fish and Wildlife Service  
Geological Survey  
Environmental Protection Agency

**Tribal Governments**

Torres-Martinez Desert Cahuilla Indians  
Cabazon Band of Mission Indians

**State Agencies**

State Water Resources Control Board  
Colorado River Basin Regional Water Quality Control Board  
California Air Resources Board

**Local Agencies**

Metropolitan Water District of Southern California  
San Diego County Water Authority  
Coachella Valley Water District  
Imperial Irrigation District  
Imperial County  
Riverside County  
Imperial County Air Pollution Control District  
South Coast Air Quality Management District  
Coachella Valley Association of Governments  
Imperial Valley Association of Governments

**Nongovernmental Organizations**

California Farm Bureau Federation  
Riverside County Farm Bureau  
Imperial County Farm Bureau  
Defenders of Wildlife  
California Waterfowl Association  
Pacific Institute  
United Anglers of Southern California  
Audubon California  
Sierra Club  
CalEnergy Operating Corporation  
New River Citizens Congressional Task Force

**Federal Process.** Under existing federal law, the federal Bureau of Reclamation is required to develop a restoration plan for the Sea. Unlike the state, however, there is no existing requirement that the federal government participate in the restoration of the Sea. The Bureau of Reclamation was required to present a restoration plan to Congress by the end of 2006, after which time the Congress may consider whether to participate in any restoration. (At the time this report was written, the Bureau's restoration study had been approved and was awaiting publication.)

Aside from its potential *voluntary* participation in a future restoration of the Sea, it is unlikely that the federal government would be heavily involved in regulatory issues related to the Sea. For example, state and local agencies are generally responsible for enforcing the air quality and water quality requirements of federal laws such as the Clean Air Act and the Clean Water Act, respectively. Thus, the federal government is not likely to be directly involved in regulating potential water quality or air quality impacts relating to the Sea. With regard to wildlife protection, the federal Fish and Wildlife Service has drafted a biological opinion related to the QSA and the associated water transfers. Under the biological opinion, as long as certain actions are undertaken by the local water agencies (and these are underway), the Fish and Wildlife Service has determined that the water transfers are not likely to jeopardize the survival of any federally listed endangered species located in or around the Sea. Therefore it is unlikely that there will be significant federal *regulatory* action relating to wildlife around the Sea.

**Local Process.** In addition to the state and federal agencies involved in restoration planning, there has always been considerable local interest

in the restoration of the Sea. The lead agency at the local level is the Salton Sea Authority (Authority). The Authority is a state-chartered joint powers authority, comprised of Imperial County, Riverside County, the Imperial Irrigation District, the Coachella Valley Water District, the Torres-Martinez Tribe, and the Cabazon Tribe. The Authority was created to work with California state agencies, federal agencies, and the Republic of Mexico to develop programs that would continue beneficial use of the Sea—including preserving the Sea as a depository for agricultural drainage, storm water, and wastewater flows; for protection of endangered species, fisheries, and waterfowl; and for recreational purposes. The Authority has been heavily involved in the restoration planning process and has developed its own restoration plan. The Authority's initial restoration proposal was included in the state's restoration planning process as one of eight alternatives evaluated by the Secretary. (See "Alternative 7" in Figure 5 on page 19.) Subsequently, the Authority has made some modifications to its proposal, for example increasing the amount of wildlife habitat.

### **Restoration Alternatives Under Consideration**

The Secretary and the Advisory Committee considered a series of potential alternative restoration plans. As discussed below, the eight alternatives under consideration were all designed as integrated restoration plans. In other words, while each of the restoration alternatives has components that address the various issues of concern—such as air quality or wildlife habitat—the benefits of these alternatives will generally be fully realized once the *entire* project has been constructed. An analogy would be the construc-

tion of the State Water Project. Just as the State Water Project did not achieve its purpose of providing water supplies to the Central Valley and Southern California until the system of reservoirs, pumps, and canals was linked together, the goal of restoring the Sea will likely only be fully realized once all the components of one of the alternatives (or a variation thereof) are completed. It is important to keep in mind that there would likely be little value in constructing a partial restoration plan, should financing pressures make it difficult to complete the chosen plan.

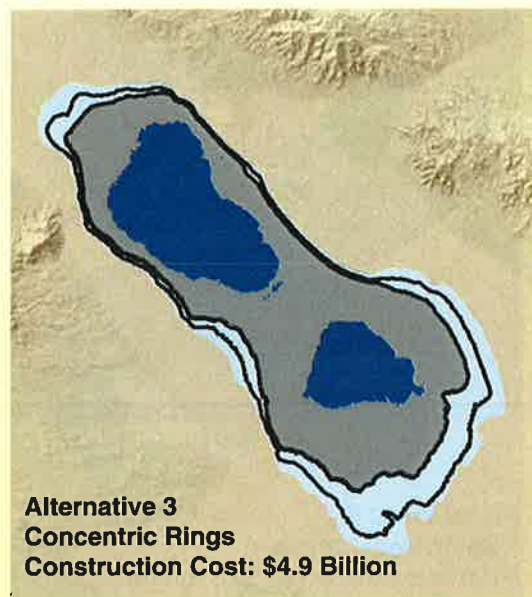
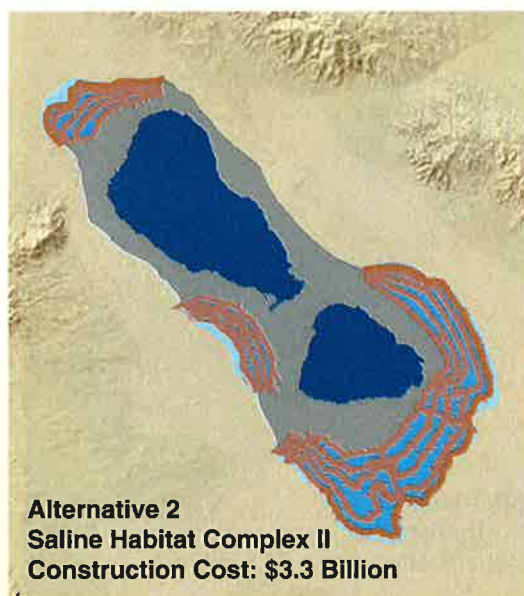
*The Programmatic Environmental Impact Report* which was released in October 2006 includes eight project alternatives to restore the Sea. In order to meet the restoration goals outlined in statute, each of the project alternatives includes at least some of the following components, which address different restoration goals:

- **Saline Habitat Complex**—a series of shallow water bodies, less than six feet deep, constructed on the exposed Sea bed. The purpose is to provide habitat for birds that currently live in and around the sea. The salinity within the individual water bodies could be controlled to provide appropriate fish and bird habitat.
- **Deep Marine Sea**—a large, open body of water with salinity similar to ocean levels, with depths up to 50 feet. It would be designed to provide habitat for birds and fish similar to what historically existed at the Sea. In general, a deep marine sea would be formed by constructing a rock barrier across the width of the sea, dividing it roughly in two.
- **Moderately Deep Marine Sea**—similar to the deep marine sea, this component would provide a large body of open water with salinity similar to ocean levels, but with water depths not more than around ten feet. (Limiting the depth of a marine sea will likely reduce the buildup of hydrogen sulfide gas within the Sea.)
- **Air Quality Management**—measures designed to minimize airborne dust from exposed playa. This would include measures such as irrigated vegetation or the formation of a salt crust on the exposed playa.
- **Desert Pupfish Connectivity**—a series of channels between the various existing pupfish habitat areas around the Sea, in order to allow movement between these habitat areas.
- **Brine Sink**—a central body into which water would flow after it had passed through other project components, such as a saline habitat complex or marine sea. Over time, the water in a brine sink would become extremely saline.
- **Freshwater Reservoir**—a separate reservoir adjacent to the Sea, designed to hold irrigation water.

Figure 5 (see next page) illustrates the alternatives that were considered by the Secretary, with estimated construction costs ranging from \$2.3 billion to \$5.9 billion. It should be noted that when QSA-related legislation was being considered by the Legislature, there were no fiscal estimates at that time of the state's potential fiscal exposure by committing to restore the Sea. While

Figure 5

**Salton Sea Restoration Alternatives**









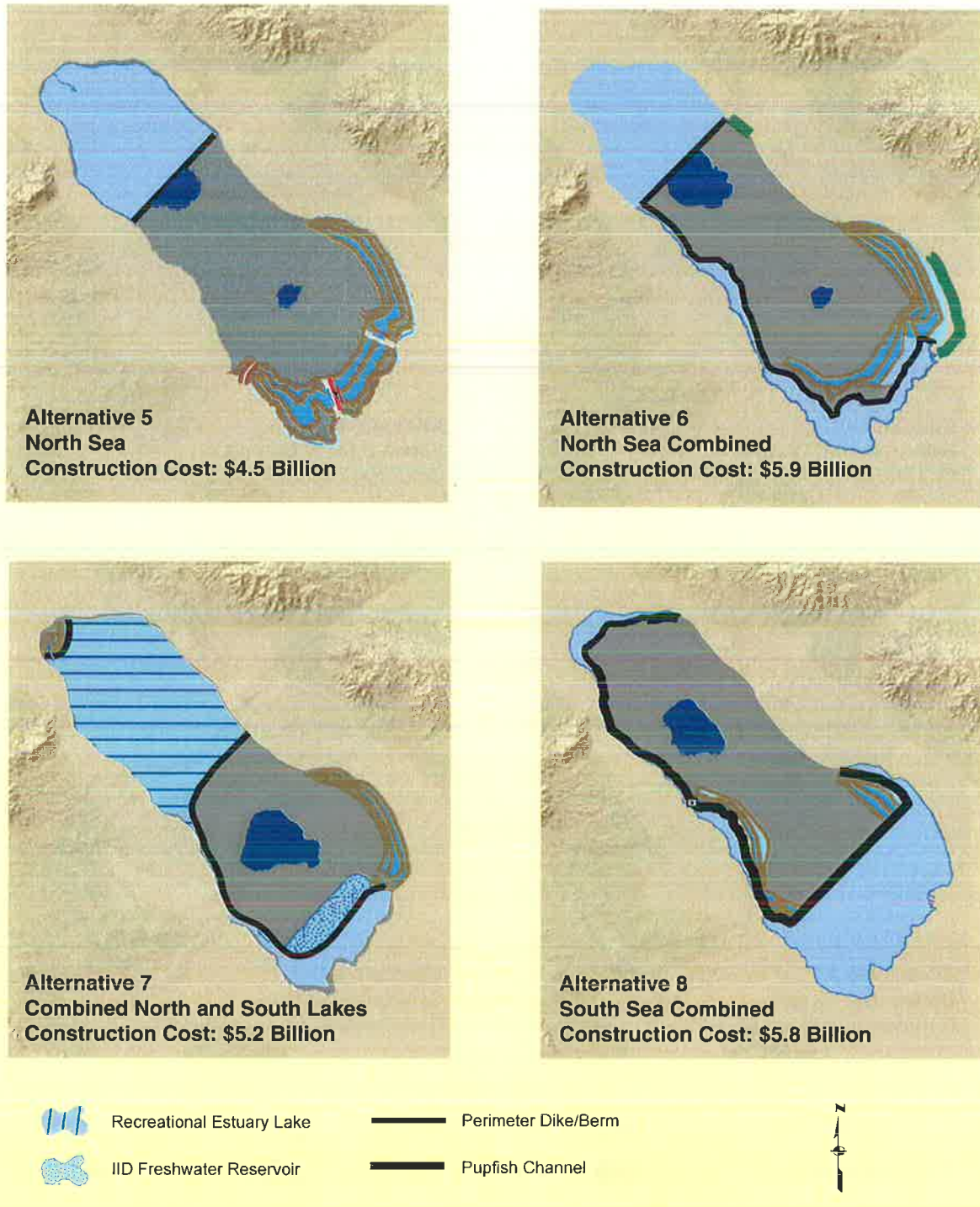
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|--|--|---|
|  Shoreline Waterway |  Saline Habitat Complex |  Exposed Playa               |
|  Marine Sea         |  Brine Sink             |  Recreational Saltwater Lake |

Figure 5 (continued)

**Salton Sea Restoration Alternatives**



each of the alternatives was designed to address the statutory objectives for the restoration, they vary in the extent to which they address the restoration goals. For example, some alternatives provide more wildlife habitat acreage (Alternative 4) or open Sea area (Alternative 7) than others. Also, the location of any barrier to divide the Sea will have significant impacts on the future Sea's recreational and economic uses. All of these factors were considered in the process of selecting the Preferred Alternative. The alternatives were compared against a "no action" alternative that reflects the Secretary's best estimate of what would happen to the Sea if a full restoration were not undertaken. However, this no action alternative assumes that the state would still undertake certain environmental mitigation activities, even without a full restoration. In particular, it was assumed that the state would still perform some basic air quality mitigation activities to prevent serious harm to air quality in the region. This no action alternative is projected to have a construction cost of approximately \$800 million.

It is important to note that for most of these alternatives, significant construction would not begin until the Sea begins to recede (likely starting in 2017). In most cases, construction would be spread over many years. Additionally, all of the alternatives under consideration would require significant annual operational costs.

### **The Preferred Restoration Alternative**

***Choice of the Preferred Alternative.*** Once the alternatives were developed, the Advisory Committee created several working groups—including a habitat working group, an air quality working group, a water quality science panel, and a process working group—to advise the Advisory Committee on the alternatives. In addition

to the statutory goals for the restoration, the Advisory Committee determined that the working groups should also consider some additional restoration goals, including: recreational and economic development opportunities; compatibility with existing and planned land uses around the Sea; changes to microclimates around the Sea from the restoration; adaptability of the alternatives to changes in climate, water inflows, and habitat characteristics; environmental justice considerations; and potential noise and traffic impacts of construction activities. The working groups compared the various alternatives based on how well each of the alternatives met the statutory and supplemental goals for the restoration. The working groups then reported back to the Advisory Committee on the alternative or alternatives that best met the criteria.

Based on the evaluation of each of the alternatives from these specialized working groups, the Advisory Committee found that the key characteristics for a restoration plan were that it include saline habitat and a marine sea, early start habitat, air quality mitigation, and limited Sea depth to improve water quality and prevent odors. According to the Advisory Committee, Alternative 5 (North Sea alternative) best met the objectives for restoration. However, from the consensus process, the Advisory Committee indicated that the final alternative should include additional saline habitat and shoreline access adjacent to existing communities (Salton City and Bombay Beach), allowing for recreation and economic development in these communities.

The Secretary then developed a Preferred Alternative based on Alternative 5 and incorporating the comments of the Advisory Committee. The final Preferred Alternative was further re-



fined to reflect comments on the draft *Programmatic Environmental Impact Report* made by individual advisory committee members, other public agencies, interest groups, and members of the public. Figure 6 (see next page) illustrates the Preferred Alternative that was recommended by the Resources Secretary to the Legislature.

**Design Features of the Preferred Alternative.** The Preferred Alternative includes:

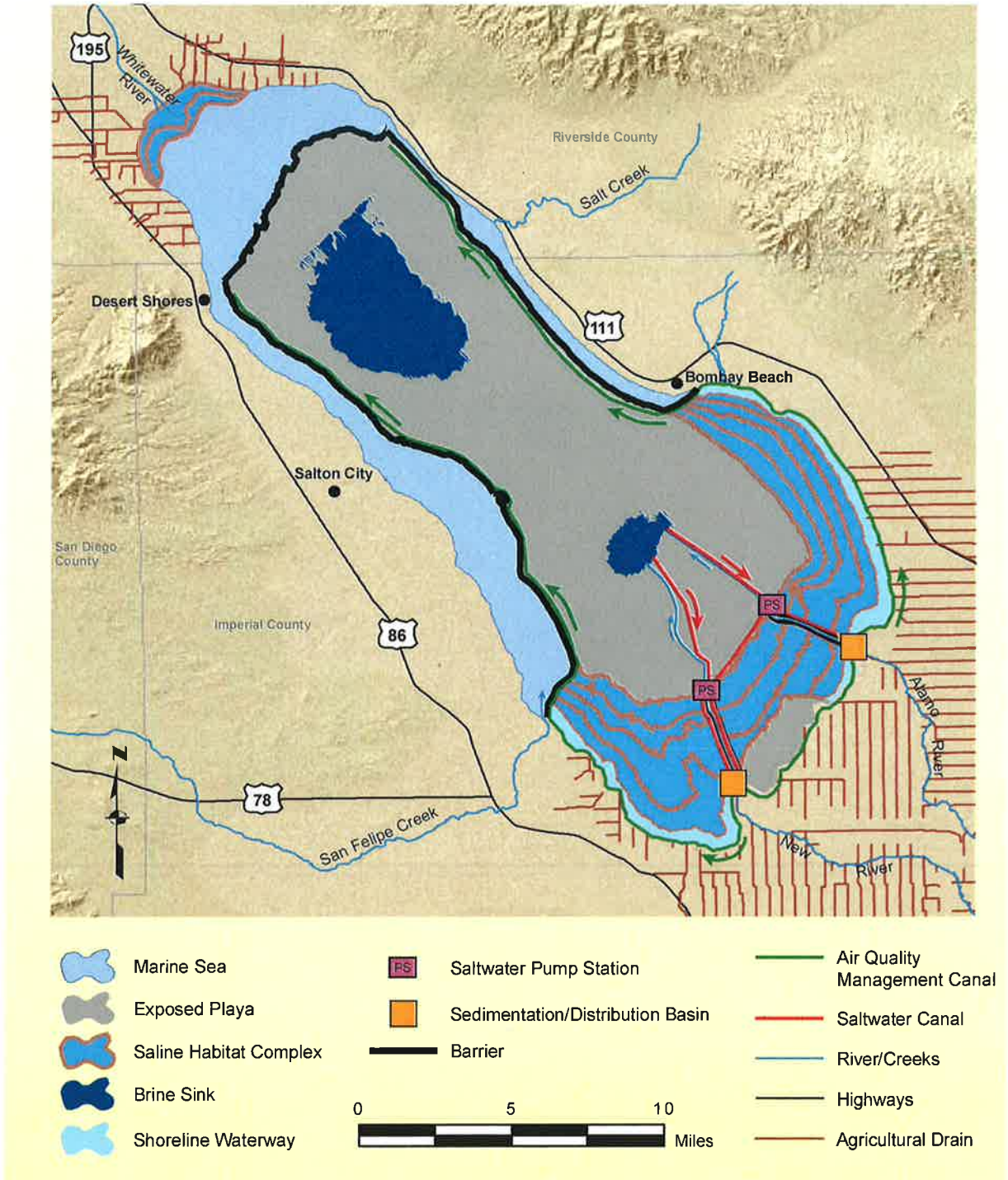
- Saline habitat complexes at both the north and south ends of the Sea, to provide wildlife habitat, primarily for bird species.
- Early start habitat that could be constructed before the full-scale habitat complexes are constructed, to provide wildlife habitat in the early years, before the project is fully completed.
- A large marine sea in a “horseshoe” shape that extends from the northern edge of the sea south along both the western and eastern shores of the existing Sea (with a maximum depth less than 40 feet to prevent the buildup of noxious gasses at depth). This will provide both open water fish and bird habitat and recreational opportunities.
- A large area of exposed playa in the center of the Sea, with facilities for air quality management on the playa to reduce dust emissions. The air quality management facilities may include irrigated plants, flooded areas, and/or the creation of a salt crust to trap dusty soils. The playa would be separated from the marine sea by a 52-mile-long barrier running from about San Felipe Creek to just below Bombay Beach.

- Two brine sinks, essentially low spots within the exposed playa area of the existing Sea, into which excess water will flow and which will become extremely saline over time.
- The possibility of future development of additional geothermal energy production at the south end of the Sea.

**Cost of the Preferred Alternative.** The Secretary’s projected capital cost for the Preferred Alternative is \$8.9 billion. As originally designed, Alternative 5 included a barrier (or dam) that was essentially a straight line across the Sea close to its narrowest point, with a projected construction cost for the barrier and perimeter dikes of \$1.6 billion. In order to increase shoreline access for existing communities along both sides of the Sea and to reduce the depth of the remaining Sea, the Preferred Alternative includes a redesigned barrier in a horseshoe shape. This redesigned barrier allows for access to the marine sea along both the east and west shores of the existing Sea. The redesigned barrier and perimeter dikes are now projected to cost \$4 billion to construct—the major factor driving the higher cost of the Preferred Alternative. The sharply increased cost for the barrier is a function of its increased length (from 9 miles to 52 miles) and it also reflects the more refined fiscal analysis that was done on the Preferred Alternative (relative to the other alternatives). It is important to note that the costs of any of the alternatives under consideration are likely to increase if they undergo the additional scrutiny that was applied to the Preferred Alternative.

Under the Preferred Alternative, during a preconstruction period between 2011 and 2013,

**Figure 6**  
**Preferred Alternative**



approximately \$500 million would be spent on planning and early start habitat. During the major construction period of 2014 through 2020, \$5.9 billion would be spent, primarily on constructing the barrier to divide the Sea, as well as constructing water conveyance structures and wildlife habitat. In the construction period of 2020 through 2025, \$690 million would be spent on creating additional wildlife habitat and air quality management facilities. In the construction completion period of 2025 through 2035, \$1.8 billion would be spent on wildlife habitat and air quality management facilities. In addition to the capital costs, the estimated operations and maintenance costs for the Preferred Alternative would begin at about \$50 million per year in 2025 and increase to \$140 million per year by 2035.

While the Secretary developed cost estimates for all of the alternatives under consideration, the

Preferred Alternative was most closely scrutinized and hence includes the most realistic cost estimates. If the Legislature wishes to proceed with a different alternative, such a choice will likely require significant additional study before the costs and technical feasibility are fully known.

***Evaluating the Alternatives.*** We do not recommend for or against the Secretary's preferred restoration alternative—or any of the potential restoration plans. Assessing the technical differences between the various alternatives is beyond the scope of this report. Rather, we recommend a number of steps for the Legislature to take—including policy and fiscal issues to consider—prior to adopting a restoration plan. We believe these steps provide a framework that will allow the Legislature to make an informed decision about how to address issues surrounding the Salton Sea within the state's funding constraints.

## RECOMMENDATIONS AND ISSUES FOR LEGISLATIVE CONSIDERATION

Now that the Secretary has designated a Preferred Alternative, the Legislature—working with the administration—will determine how to proceed with the restoration of the Sea. The statutes implementing the QSA do not require that the Legislature adopt the Preferred Alternative developed by the Secretary. However, state law does place financial responsibility for mitigating the negative impacts from the QSA water transfer—and more generally for restoring the Sea—largely on the state. As the Legislature considers how to proceed, there are several steps that it should take. We believe these steps provide a framework that will allow the Legislature to make an informed decision about how to address issues

surrounding the Sea within the state's funding constraints.

As we discuss in detail below, we recommend three major steps for the Legislature to take. First, we recommend the Legislature set its expenditure priorities. We recommend the Legislature establish the protection of air quality and the preservation of wildlife habitat as the highest expenditure priorities. Second, we recommend the Legislature formally adopt a restoration plan. The restoration plan should reflect the Legislature's priorities, realistically consider the potential sources of funding for restoration activities, and designate an implementing agency—in this case, we recommend the Department of Water

Resources as the implementing agency. We also recommend that the Legislature formally adopt its restoration plan in statute before proceeding with major restoration activities. Third, we recommend the Legislature consider adopting interim measures to address priority impacts while it deliberates on the issues surrounding the restoration.

## SETTING PRIORITIES

***The Importance of Setting Priorities.*** State law addressing the QSA requires the restoration plan to address several adverse impacts of the water transfer—reductions in habitat, air quality, and water quality. However, statute does not set priorities among these different impacts. The Preferred Alternative that has been presented to the Legislature appears to address each of these impacts as relatively equal priorities. However, given both the enormous potential costs of the restoration and the state’s ongoing fiscal difficulties, it may not be practical to adopt a restoration plan that addresses each impact and restoration objective as comprehensively as proposed. If the state’s fiscal condition requires the Legislature to reduce the scope of the restoration or delay certain portions of it, there is no existing statutory direction indicating which aspects should be a higher priority over others. Given this, we recommend that the Legislature specifically determine its priorities.

Setting legislative priorities in statute would provide a basis for adopting a restoration plan that fits identified resources. It is important to note that it would not likely be practical to scale down any of the proposed restoration plans once construction has begun. Each of the restoration alternatives under consideration is an integrated plan that would only provide benefits once the

entire plan is constructed. For example, there would be very little value in constructing one-half of the barrier to divide the Sea that is proposed in the preferred alternative. The purpose of setting legislative priorities up front is that it would allow the Legislature to decide what plan best addresses legislative priorities with identified resources, *in advance* of construction.

While there are good policy reasons to mitigate all of the impacts discussed in the QSA statutes, we recommend the Legislature place the greatest priority first on air quality impacts and second on potential habitat loss resulting from the water transfer. Actions to address the loss of the Salton Sea fishery and water quality impacts of the water transfer, as well as facilitating economic development in the area, should be considered lower priorities.

***Mitigating Air Quality Impacts.*** The state’s first priority should be to mitigate the air quality impacts of the water transfer. Air quality in the communities surrounding the Sea is already impaired and there are potential adverse health impacts of increased particulate pollution from a receding shoreline. For example, asthma, heart disease, and other pulmonary conditions are affected by air pollution and may increase should air quality decline. While the costs to mitigate air quality impacts could be substantial in their own right (see text box on the Public Costs of Owens Lake Dust Mitigation), the potential health impacts argue for the state to make this a high priority.

***Protecting Habitat.*** The state’s second priority should be protection of the habitat of protected species (including species that are threatened, endangered, or fully protected under state law; see Figure 2). As discussed earlier, there are dozens of bird species that use the habitat in and around the Sea—many of which have protected

status under state law. The QSA statutes allow the Department of Fish and Game to issue an incidental take permit to the parties to the QSA water transfer, but this authority is predicated on the state taking action to protect the overall health of these species. Because the state has lost so much of its historic wetland habitat, many migrating bird species have come to rely on habitat in and around the Sea during their annual migrations. Any further loss of habitat for these species could further imperil their long-term survival. In order to protect these species, the state should make the mitigation of wildlife habitat loss due to the water transfer a priority.

***Issues of Water Quality and Economic Development.*** The Sea is a terminal lake that is destined to become increasingly saline over time without human intervention. Additionally, there is no simple or inexpensive way to reduce salinity in the Sea. Addressing salinity will require the construction of a fully integrated restoration plan, as is proposed in the various restoration alternatives. As we discussed in detail above, any full

restoration plan that addresses water quality in the Sea will be very expensive and take decades to complete.

Salton Sea water, given its high salinity, is neither a source of irrigation nor drinking water. It does not appear to be economically feasible to improve water quality in the Sea to the point that it could be used for these purposes. Rather, improving water quality in the Sea is a means to accomplish other goals—preserving habitat for fish and the birds that feed on them and allowing for human recreation and the economic development that follows.

While improving water quality in the Sea would benefit wildlife, there may be other ways to more directly preserve wildlife habitat without incurring the very substantial costs required to improve water quality in the Sea—such as constructing and managing saline habitat around the perimeter of the existing Sea. Given that there may be opportunities to protect wildlife habitat more cost-effectively and that recreation and economic development are not statutory goals

### **OWENS LAKE DUST MITIGATION: A CASE OF SUBSTANTIAL PUBLIC COSTS**

During the early part of this century, the Los Angeles Department of Water and Power purchased much of the water rights in the Owens Valley (located along the eastern Sierra Nevada mountains) and began diverting this water to Los Angeles. By the 1920s, Owens Lake had dried out, leaving behind a dry lake bed. Due to high winds in the area, Owens Lake generates very large amounts of fine, airborne dust—greatly reducing air quality in the Owens Valley. In 1998, the City of Los Angeles signed an agreement with the Great Basin Unified Air Pollution Control District to mitigate the dust that was impairing air quality in the Owens Valley. Since that time, the Department of Water and Power has implemented dust control measures on 23 square miles (about 15,000 acres) of lake bed, with 19 more square miles to be completed later this year. Dust control measures include, for example, irrigating areas to support plant cover or flooding certain areas. At completion of the project, the department will have spent \$520 million in capital costs, with estimated operations costs of \$41 million per year.

for the restoration (and could be addressed by local government and private enterprise), we recommend the Legislature make directly improving water quality a lower priority than preserving air quality and directly preserving wildlife habitat. In our view, the state should direct limited funding to existing statutory and legal obligations in the near term.

Finally—and aside from the restoration goals described above—the Legislature should consider how the restoration of the Sea fits into the state’s overall plans for meeting its water supply needs. While an in depth discussion of the state’s future water supply needs is beyond the scope of this report, please see the nearby text box for a brief discussion of particularly significant restoration issues relating to the state’s water supply needs.

### **ADOPTING A COMPREHENSIVE PLAN FOR THE RESTORATION**

The statutes governing the QSA describe in very general terms the state’s responsibility for restoring the Sea and limit the financial contribution of specified local water districts. While statute does not require the Legislature to adopt a plan for restoring the Sea, we recommend that the Legislature adopt such a long-term plan. As discussed earlier, any restoration of the Sea will take decades to accomplish and potentially cost billions of dollars. It is critical for the Legislature to decide—in advance—what the state does and does not intend to accomplish from the restoration and what the Legislature’s expenditure priorities are. There are other critical issues that should also be decided by the Legislature in the context of formally adopting a restoration plan—including deciding how the restoration will be financed and setting up a governance structure for the restoration. We believe these issues

should be decided by the Legislature *before* the state embarks on making large outlays of public funds for the restoration, and we discuss them in the following sections.

### **Deciding How to Pay for the Restoration**

All of the restoration alternatives that have been developed by the Secretary are very expensive, including the simple “No Action” alternative. The projected costs—from \$800 million to \$8.9 billion in construction costs, plus tens of millions of dollars per year in operating costs—will require a substantial funding commitment from the state. Adopting any of the proposed alternatives will commit the state to what will be one of its largest ever environmental restoration projects. We believe it is critical that the Legislature carefully consider the financial side of the restoration before committing to a specific restoration plan. As we discuss further below, we do not believe that the state can count on significant funding from either the federal government or local governments for this purpose. Ultimately, we believe that state funds—namely the General Fund, either through direct appropriations or in support of bond financing—will be called upon to pay the bulk of the cost to restore the Sea.

***Restoration Plan Should Include Comprehensive Financing Plan.*** In addition to developing the Preferred Alternative, the Secretary is required to develop a financing plan for the restoration. In recommending the Preferred Alternative, the Secretary has included a very general funding plan for the restoration. The funding plan identifies potential revenue sources that *could* be used to fund the restoration, such as future bond funds, the General Fund, federal funds, and local assessments. However, it does not include any specific proposals for how the capital costs and

the operational costs of the restoration *should* be allocated amongst the various potential funding sources. Nor does it realistically assess the likelihood of any of these potential funding sources being available for the restoration.

We recommend that the Legislature adopt a realistic and comprehensive funding plan as a part of the restoration plan. Such a comprehensive financing plan should include both a schedule of future costs and a specific allocation among funding sources to meet those future costs. In developing the plan, a number of criteria should be applied. First, the plan should make a realistic assessment of available funding. Second, the plan should apply the “beneficiary pays” principle to the extent possible. Third, the plan should respect any current statutory or contractual conditions that limit the contributions from specified local water districts.

Given the state’s ongoing budgetary constraints and the uncertainty of any significant fu-

ture federal funding, we think it is critical that the Legislature decide what the state can realistically afford to spend on the restoration when deciding which restoration plan to pursue.

**Limited Options for Securing Nonstate Funds.** In general, we have recommended that the state follow the beneficiary pays and “polluter pays” principles when funding environmental programs. In this case, however, statutory and state contractual obligations severely limit the Legislature’s ability to follow these principles in obtaining significant amounts of nonstate funds to pay for the restoration. Specifically, the QSA statutes and contractual agreements explicitly limit the financial liability of the IID and other “polluters” (in this case, the “pollution” is the reduced inflows into the Sea, rather than traditional water or air pollution). Additionally, while protecting and restoring fish and wildlife habitat may have some direct beneficiaries—such as bird watchers or recreational fisherman—for the

### **RESTORATION AND POTENTIAL FUTURE WATER TRANSFERS**

One issue that the Legislature should consider is how the restoration effort could be impacted by potential developments in meeting the state’s long-term water needs. The Secretary’s Preferred Alternative is based on inflows into the Sea of at least 650,000 acre-feet per year in at least 80 percent of years (known as the “design flow”). These inflow projections take into account a variety of potential changes to water use in the areas surrounding the Sea—including changes in water quality regulations and increased water recycling in Mexico.

However, one variable not considered in the Secretary’s Preferred Alternative is the possibility of future water transfers out of the Imperial Valley (in addition to the QSA water transfer). In the near term, such additional water transfers are unlikely. However, over the restoration project’s long timeline, it is possible that continuing urban growth in Southern California will increase the economic and political pressure to transfer additional water from Imperial Valley to urban Southern California. The potential for such transfers is an issue that needs consideration before a specific restoration plan is adopted to ensure that future water inflows will be sufficient to support the plan’s operation.

most part the benefits of protecting these natural resources are diffuse and benefit the public generally. This makes it difficult to obtain significant funding from potential individual beneficiaries.

While we recommend that the state work with the federal government and local interests to maximize the nonstate contribution to the restoration, for reasons discussed below we do not think it is likely that federal or local funds will be able to finance more than a small portion of the cost of the restoration.

**Local Funding.** While there are some potential sources of local funding for the restoration, we think these sources are relatively limited or uncertain.

- **Local Water Districts.** The statutes implementing the QSA capped the liability of the local water districts that are party to the QSA—including IID—to \$133 million for environmental mitigation activities related to the water transfer. The IID is undertaking a habitat conservation plan to mitigate the impacts of the water transfer in the rivers, agricultural canals, and drains surrounding the southern end of the Sea. According to IID, the entire \$133 million will be spent on developing and implementing this plan and to pay for the mitigation flows the IID is putting into the Sea, leaving none of these funds for future restoration activities. On the other hand, under the QSA statutes these water districts are required to pay \$30 million into the Salton Sea Restoration Fund, which will be available for restoration efforts. Ultimately, the QSA statutes provides that—except for these two specified funding requirements—no

further funding obligations are required of these local water districts.

- **Other Local Governments.** The QSA statutes and agreements limit contributions to the restoration from specified local water districts discussed above. On the other hand, the QSA statutes and agreements do not limit potential contributions to the restoration from other local governments, such as Imperial or Riverside Counties. Local governments adjacent to the Sea will benefit from any restoration of the Sea, to the extent that such as restoration leads to economic development in the area. However, because any such benefits will not accrue for decades, it is more practical to expect local governments to potentially share in the costs of operating and maintaining the restoration once it has been completed and the benefits begin to occur, rather than to contribute to the construction costs.
- **Local Development Funding.** The Salton Sea Authority has a proposal to fund its own proposed restoration plan using bonds sold against future property tax proceeds. Under this scenario, the federal government would transfer some unused federal lands along the west side of the Sea to the authority, which in turn would sell the land to a master developer. The authority would sell bonds to pay for the restoration. The bonds would be paid back, over many years, with future property assessments on the new development. The authority projects that



the plan could generate around \$1 billion in bond proceeds. This proposal is fairly speculative in nature and it is uncertain whether such development financing can be counted upon to pay for a significant portion of the restoration. Setting up and running such a development scheme would most likely be a local responsibility. Because the state has the financial responsibility for the restoration, the Legislature should carefully consider whether such development financing can be a viable means to contribute to the restoration—for example, by helping to pay for the ongoing operations and maintenance costs of the restoration plan.

- **Additional Water Transfer Proceeds.** An important part of the QSA was the water transfer from IID to other Southern California water agencies. In addition to this primary water transfer, there are two other potential transfers that were envisioned in the QSA statutes—transfers involving the “(c)(1) water” and the “(c)(2) water.” (See text box entitled “Water Transfers” on page 30.) These water transfers could only take place if they would advance the goals of the restoration. If they take place, the proceeds of these additional transfers—about \$60 million for the (c)(1) water and an unknown amount for any remaining (c)(2) water—would be available solely for the restoration.

**Federal Funding.** Federal law requires the Bureau of Reclamation to develop a restoration plan for the Sea, with objectives similar to the state’s objectives. Unlike the state, however, the federal government has no statutory or legal

obligation to restore the Sea. It is in the state’s interest to work with the federal government to secure a federal contribution to the restoration and we recommend the Legislature and the administration do so. (We note that the federal Water Resources Development Act of 2007 authorizes—but does not appropriate—\$30 million in federal funds for the Salton Sea.)

However, we caution against counting on federal funding for a significant portion of the total project cost. Given the significant federal budget deficit and the federal government’s existing financial commitments to the CALFED Bay-Delta Program and other environmental restoration projects, it seems unlikely that significant federal funding for a new environmental restoration project will be forthcoming. Even in cases where the federal government is under an obligation to share funding with the state, federal funding has not always been forthcoming. For example, while CALFED is ostensibly an equal partnership between the state, the federal government, and local water users, since 2000 the state has contributed over \$2.6 billion to CALFED, mostly using general obligation bond funds, while the federal government has contributed less than \$650 million.

**State Funding.** Ultimately, the state is likely to pay for the bulk of the restoration of the Sea. Potential state funding sources include:

- **Existing Bond Funds.** While Proposition 50 provided \$50 million for Colorado River projects, these funds have largely been spent on restoration planning and other activities. Proposition 84, which was approved by the voters in the November 2006 election, contains \$47 million for the restoration of the Sea (for deposit in the Salton Sea Restora-

tion Fund). These bond funds can be used to carry out the intensive planning that will be necessary before the actual restoration project can be implemented. However, given the enormous projected costs of the restoration, these funds will make up only a small portion of the total project construction. (The *2007 Budget Act* provides \$12.5 million from Proposition 50 and \$13.3 million from Proposition 84 for restoration planning activities and other initial restoration activities.)

➤ **General Fund.** Because the state has the statutory responsibility for the restoration of the Sea, the state's General Fund will most likely be called upon to bear most of the costs of this restoration—either directly or as the funding source to retire additional bonds. There are statewide benefits to restoring the Sea—such as wildlife preservation or recreational opportunities—which justify the use of state funds. However, it is important to realize that the restoration will be com-

### **WATER TRANSFERS UNDER THE QUANTIFICATION SETTLEMENT AGREEMENT**

**Imperial Irrigation District Water Transfer.** At the heart of the Quantification Settlement Agreement (QSA) is a transfer of water from the Imperial Irrigation District (IID) to the San Diego County Water Authority, the Coachella Valley Water Authority, and/or the Metropolitan Water District of Southern California (Met). Under the QSA, IID will transfer water to one or more of these agencies for at least 35 years. The transferred amounts will ramp up from 10,000 acre-feet per year in 2003 to 300,000 acre-feet per year in 2026. Initially the water provided by IID will come from fallowing agricultural fields. Ultimately IID will rely on conservation measures to save enough water to meet the transfer obligations.

**“(c) (2) Water” Transfer.** As part of the QSA, IID will allow up to 800,000 total acre-feet of conserved water to flow into the Salton Sea until 2017 to mitigate impacts of the water transfer. After 2017, it was presumed that a restoration plan would mitigate other impacts of reduced flows into the Sea. This water is referred to as “mitigation flows” or (c) (2) water for its location in the Fish and Game Code (Section 2081.7(c) [2]). If the Secretary for Resources finds that mitigation flows are no longer necessary (for example because construction of a restoration plan is ready to begin), any remaining (c) (2) water can be transferred to Met for \$250 per acre-foot (2003 dollars, adjusted for inflation).

**“(c) (1) Water” Transfer.** Under Fish and Game Code section 2081.7(c) (1), IID may transfer an additional 800,000 total acre-feet of water to the Department of Water Resources (DWR), for resale to Met. The DWR would pay IID \$175 per acre-foot and Met would pay DWR \$250 per acre-foot (2003 dollars, to be adjusted for inflation in both cases). In addition, DWR would be responsible for the mitigation of any impacts of this water transfer on the Sea.

According to statute, any net proceeds from either (c) (1) or (c) (2) water transfers would be deposited in the Salton Sea Restoration Fund and would be available for restoration activities.

peting with other funding priorities—such as education and health care—for future General Fund dollars.

**Summary.** Adopting and beginning the implementation of a restoration plan turns a general state liability to restore the Sea into a specific dollar obligation. Further, due to the integrated nature of the alternatives under consideration, adoption of any of the proposed alternatives will—in effect—commit the state to a significant, ongoing funding obligation. It is critical to realize that the benefits of the Preferred Alternative—or any of the alternatives—will generally accrue only when the entire project is completed. There would be little benefit to constructing one-half of a restoration plan.

As discussed, it seems most likely that the state's General Fund will be "on the hook" for the bulk of the costs for any restoration plan. Nevertheless, the state should aggressively pursue all options for nonstate funds as a means to partially finance the restoration effort.

### **Governing the Restoration Process**

Existing law clearly declares the state's obligation to restore the Sea and sets up a process to develop a restoration plan. However, there is no statutory guidance as to the process for carrying out the restoration. In particular, there are no state or local agencies that have been given the responsibility for actually restoring the Sea. Whether the Legislature adopts a comprehensive restoration plan or instead initially adopts only interim measures for the near term, the Legislature should designate one or more implementing entities for the restoration. Such entities could be a single or multiple departments within state government; local agencies; a collaborative structure of several state, federal, and/or local agencies;

or some other system. We discuss these options further below.

**Desired Outcomes in Designing a Governance Structure.** In designing a governance structure for the restoration, the desired outcomes are:

- **Authority to Carry Out Program Goals.** Given the considerable cost of the potential restoration alternatives and the very long timeline for full project implementation, it is critical that the implementing entities be able to effectively implement the restoration. Specifically, the implementing entities should be given sufficient authority over the project to make appropriate decisions and sufficient staff expertise to carry out the restoration.
- **Accountability to the Administration, the Legislature, and the Public.** Given that the restoration will consume considerable state funds, it is critical that elected officials and the public at large are able to hold the implementing entities accountable for both successes and failures of the restoration process. Accountability requires both transparency in decision making and the ability for elected officials to hold specific decision makers responsible for their actions. Essentially, accountability to the Legislature requires that the Legislature knows who is making decisions so that it can hold that person or persons directly accountable for the results of those decisions.
- **Administrative Efficiency.** Given the enormous projected costs of the restoration, it is essential that the state perform

the restoration as efficiently as possible. The Legislature can facilitate efficiency by adopting a program structure that does not include unnecessary complexity or duplication of effort, while facilitating coordination among multiple agencies. For example, the Legislature should avoid creating a program structure that relies on a diffuse decision making process, as this often leads to conflicting program goals and administrative redundancies.

These objectives will be important to the long-term success of the restoration project. Unfortunately, sometimes these objectives are at odds, and hence the Legislature will have to balance the competing needs when creating a governance structure. For example, oftentimes a single department is the most efficient body for performing a specified task. Departments have a clearly defined organizational structure with a single department head who is empowered to make direct management decisions and who can be held accountable for the department's performance by the Governor and the Legislature. On the other hand, departments do not always utilize the public deliberation and decision making processes that occur with an appointed or elected commission or board. However, regardless of the governance structure, public participation can always be built in as a design feature. For example, statute requires the Department of Toxic Substances Control to have public input into its regulatory decision making processes.

**Options for a Governance Structure.** In balancing the goals of effectiveness, accountability, and efficiency, there are several governance models that could be used to implement the restoration of the Sea. There are three primary models, with many variants for each:

- **Direct State Control.** Under this model, the state would take the lead in implementing the restoration. The Legislature could designate a single body—either existing or newly created—to carry out the restoration; it could assign the various restoration activities to different bodies of state government; or, it could designate a lead department or agency, and either allow that lead entity to divide up restoration activities amongst other state entities as needed or make this allocation itself. Under any of these scenarios, direct state control would centralize restoration activities, making it easier for the Legislature to oversee the restoration process. On the other hand, it may limit participation by local interests or other interested parties.
- **Local Control.** There is considerable interest in the communities surrounding the Sea for direct local control of the restoration process. In order to ensure that those people most directly impacted by conditions at the Sea are empowered to make decisions about its future, the state could designate a local body—such as the Salton Sea Authority—as the body to implement the restoration. While there is merit in giving local interests a role in the restoration process, it is the state—rather than local interests—that has the statutory responsibility to pay for and carry out the restoration. Therefore, focusing authority locally would separate those with authority from those with the primary responsibility for the restoration (including paying for it). This would make it difficult to hold decision makers accountable for their actions.

- **The Collaborative Model.** Under this structure, the various state agencies, as well as local interests, federal agencies, and nongovernmental groups, would be grouped together to form a collaborative structure. Such a governance model would maximize public access and allow all the interested groups a direct stake in the process. On the other hand, creating a diffuse governance structure without a clear leader would limit the ability of the state's elected officials to oversee the restoration, since there would be no single responsible entity that could be held to account for program successes and failures.

**Recommended Governance Structure.** There are inherent relative strengths and weaknesses in each of the governance models discussed above. Given the very significant financial responsibility faced by the state, we believe that a necessary characteristic of any governance structure is that it will be accountable to the Governor and the Legislature. Therefore, we recommend that the Legislature adopt a model of direct state control, as this provides the greatest accountability to the state's elected officials.

While the Secretary for Resources was responsible for developing and recommending the Preferred Alternative, we believe that the Secretary lacks the staff, administrative capacity, and the day-to-day program expertise (found in the agency's constituent departments) to *directly* implement such a considerable project. Therefore, we recommend the Legislature designate the Department of Water Resources as the lead entity responsible for implementing the restoration. Since the department is headed by a director

who is directly responsible to the Governor and who can be held accountable by the Legislature, designating the department as the lead entity for the restoration will further accountability. In addition, the technical and organizational expertise required to manage the complex State Water Project (built up over several decades) will be a very valuable asset to the department in planning, constructing, and operating the restoration plan. However, restoration of the Sea will touch on issues relating to fish and wildlife, air quality, land acquisition, and many other technical issues—many of which are outside the department's primary area of responsibility. Therefore, it will be essential that the department work closely with other, relevant state entities, such as Department of Fish and Game, the Air Resources Board and the Wildlife Conservation Board, to name a few. We believe that where appropriate, the department should consult with and contract with these other entities for specialized assistance, while retaining primary responsibility for overseeing the restoration. In adopting implementing legislation for the governance structure, the Legislature should address the roles of other state or local agencies, so that the various roles are clear from the outset.

While we believe that it is in the state's best interest to designate a single body with direct project oversight responsibility, we think that there is value in providing a mechanism for other state, federal, and local agencies and interest groups to provide input and feedback to the department. In order to facilitate continued public involvement and deliberation, we recommend that the Legislature extend the term of the existing Advisory Committee. This would allow for continuing public deliberation and public input

to the department. We recommend that the Advisory Committee continue to be *advisory* in nature while the department be directly *responsible* for the restoration. While a more diffuse and collaborative organizational structure may provide a greater level of input from interested parties, the Director of the Department Water of Resources answers to the Governor and the Legislature, who together are accountable to *all* the residents of the state and bear ultimate responsibility for the restoration of the Sea.

### **Legislature Should Adopt A Restoration Plan**

Once the Legislature has clearly declared its priorities for the restoration, and decided how it will be paid for and governed, the Legislature is in a position to adopt a specific restoration plan in statute. Due to the potentially unprecedented scope and cost of the restoration effort, we believe it is critical that the Legislature formally adopt a specific restoration plan. Formally adopting a restoration plan in statute will allow future Legislatures and the public to measure the progress in restoring the Sea against the official plan.

### **ADOPTING INTERIM MEASURES PRIOR TO THE FINAL PLAN**

Should the Legislature decide not to adopt and proceed with an integrated, long-term res-

toration plan in the near future, we recommend that the Legislature consider adopting interim measures to mitigate some of the most pressing impacts of the water transfer in the near term. Adopting interim measures can address key impacts of the water transfer, while allowing more time to determine how the state will proceed with the overall long-term restoration effort. Should the Legislature decide not to proceed with a full scale restoration in the near term, we recommend the Legislature specifically adopt interim measures to mitigate the immediate air quality impacts and habitat loss. For example, all of the alternatives under consideration include “early start habitat” which could provide bird habitat during the period between the initial decline in inflows and the completion of the restoration project. Funding early start habitat can protect species of concern in the near term and in most cases involve “no regrets” actions that could be incorporated into any final plan for a comprehensive restoration project.

In this vein, the Legislature has already provided \$26 million in the *2007 Budget Act* to the Department of Fish and Game that can be used for project planning and early start habitat, thereby allowing for timely, early actions to make habitat improvements that are not contingent on the final restoration plan.

## CONCLUSION

In previous decades, the Sea provided both wildlife habitat and recreational opportunities. Due to the QSA water transfer, the Sea will become increasingly saline and the shoreline will recede over the next few decades—causing significant impacts to air quality, wildlife, and water quality. The state has a statutory and contractual obligation to restore the Sea. In addition, there are policy reasons for the state to restore the Sea. While there may be opportunities for some financial participation by local interests or the federal government, the state is likely to pay the bulk of the cost of restoring the Sea—\$8.9 billion under the current proposal. As it considers the restoration of the Sea, we recommend several actions that the Legislature should take, such

as setting priorities, planning for how to finance the restoration, creating a governance structure for the restoration, adopting a formal restoration plan, and potentially adopting interim measures to mitigate near-term impacts. We summarize our recommendations in Figure 7.

**Figure 7**  
**Restoring the Salton Sea**  
**LAO Recommendations**

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**Setting Priorities**

Place greatest priority on mitigating air quality impacts of the Quantification Settlement Agreement water transfer, followed by mitigating wildlife habitat loss.

**Adopting a Comprehensive Plan for the Restoration**

*Deciding How to Pay for the Restoration*

Work with local and federal partners to secure nonstate funding.  
 Include a comprehensive and realistic funding plan.

*Governing the Restoration Process*

Designate the Department of Water Resources as the lead entity for implementing the restoration.  
 Extend the term of the Advisory Committee to provide public input into the process.

**Adopting Restoration Plan in Statute**

Adopt in statute the Legislature's choice of a restoration plan, based on legislatively determined expenditure priorities for the restoration.

**Adopting Interim Measures Prior to the Final Plan**

Consider adopting measures to address priority impacts while consideration of the long-term restoration plan is ongoing.





### 3 LAND USE ELEMENT

*The purpose of the Land Use Element is to plan for and shape the future physical development of Livermore and to preserve and enhance Livermore's current quality of life, so that the City can remain a community with a mix of land uses providing varied job and housing opportunities while maintaining its surrounding agriculture and open space. The Land Use Element is the central chapter of the General Plan.*

As required by State law, this Land Use Element contains text and maps that designate the future use and reuse of land within Livermore City limits. The Land Use Element also includes standards of density and building intensity for the City of Livermore, which is also required by law.

While Alameda County has direct control over land in the unincorporated part of the Planning Area, the Livermore General Plan Land Use Element also provides guidance for this part of the Planning Area, which will be used by the City in commenting on projects in the Planning Area.

#### *A. Background Information*

##### **Land Uses in 2002**

In order to verify how land was being used in the City of Livermore and the surrounding Planning Area, a field reconnaissance was conducted in the summer of 2002. Additional information pertaining to 2002 land uses was obtained by reviewing the City's land use database, as well as examining aerial photographs. Land uses, as were in existence in 2002, are shown illustratively in Figure 3-1.

The existing land uses were grouped in the following general categories:

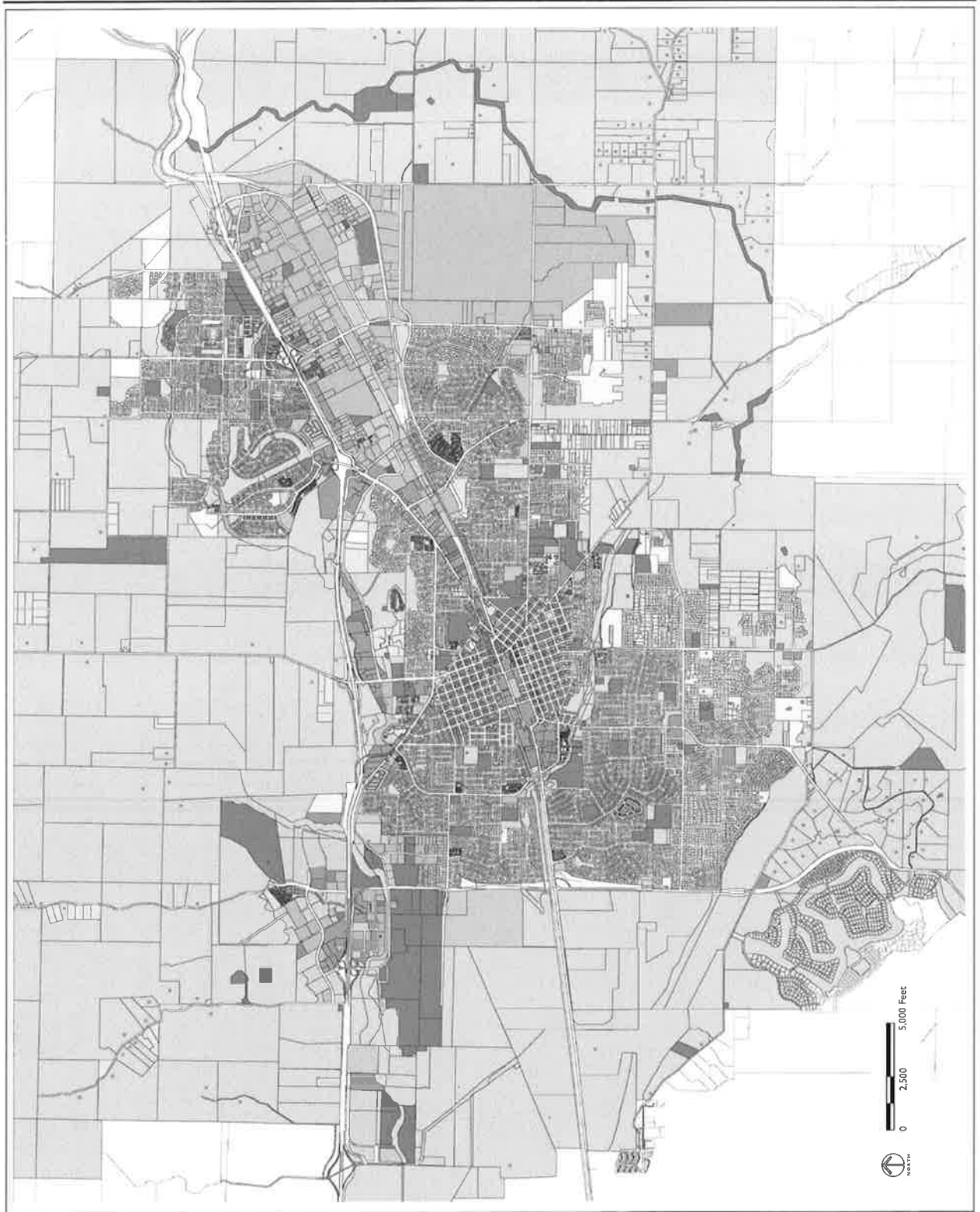
- ◆ **Single-Family Residential.** This is the predominant existing land use in the City. It refers to parcels which contain a single residence and related structures, such as garages and sheds. Some single-family residential parcels -- especially those on the edges of the City limits -- are referred to as rural residential because they also contain orchards, vineyards, and/or structures related to raising animals. Mobile homes and townhouses are also included in this category.

- ◆ **Multi-Family Residential.** Refers to parcels containing more than one residence in the form of condominiums, apartments, and group housing. Multi-family housing is found primarily on major streets such as East Avenue, Murrieta Boulevard, and Portola Avenue.
- ◆ **Office.** Refers to parcels containing structures which are used to conduct business, but do not contain a retail component. Office buildings are located primarily on the western part of the City on either side of I-580, as well as in the Downtown.
- ◆ **Retail.** Refers to parcels that are used for the purposes of buying or selling goods and services (e.g., food markets, restaurants, banks, and car dealerships). Service commercial uses and lodging are also included in this category. Retail uses are concentrated in the Downtown and along major streets including First Street, Portola Avenue, and Livermore Avenue.
- ◆ **Industrial.** Refers to parcels used for production and manufacturing, and includes warehouses, research and development, and production-oriented small businesses. Industrial uses are located primarily on the eastern side of the City near I-580. Additional industrial uses are found in the western part of the City near the Municipal Airport.
- ◆ **Public.** Public uses are government-owned and operated facilities such as public schools, post offices, the Civic Center, and fire stations.
- ◆ **Churches/Religious Uses and Other Institutions.** Parcels used for the practice of religion or spirituality including churches, synagogues, and religious residences. This category also includes cemeteries and private clubs.
- ◆ **Parks, Recreation and Open Space.** Includes recreational spaces like Robertson Park, the Las Positas and Springtown Golf Courses, and the rodeo grounds. This category also includes trails and areas of protected habitat.

FIGURE 3 - 1

2002 EXISTING LAND USES  
(FOR ILLUSTRATIVE PURPOSES ONLY)

- Vacant Industrial
- Underdeveloped Industrial
- Developed Industrial
- Vacant BCP
- Developed BCP
- Vacant Commercial
- Underdeveloped Commercial
- Developed Commercial
- Public Uses
- Vacant Public Uses
- Residential Care Facilities
- Open Space/Agriculture
- Vacant Residential
- Allocated Residential
- Developed Single Family Residential
- Developed Multi Family Residential



back of Existing Land Use Map

- ◆ **Agriculture.** Includes agricultural uses such as vineyards and orchards. This use also includes uses that support agriculture, such as tasting rooms and touring facilities. Some of these parcels appear to be completely undeveloped or are utilized for grazing and other low-intensity agriculture.
- ◆ **Airport.** Livermore's Municipal Airport is located in the western portion of the City. Examples of Airport operations include flight instruction, fuel sales, aircraft rental, and maintenance and storage of aircraft.
- ◆ **Undeveloped Land.** This designation includes land inside the urbanized area that is being held for development but is not yet developed.

Table 3-1 quantifies how much land within the City limits was taken up by each major land use in 2002. Single-family residential land uses occupy 5,123 acres, the largest amount of land in the City. Multi-family residential occupies 400 acres. Parks, recreation and open space are the second major existing use in the City, occupying 1,696 acres, while undeveloped parcels occupy 1,785 acres, and agriculture occupies 1,068 acres. Public uses occupy 703 acres, and industrial uses occupy 960 acres. Office uses occupy 248 acres, retail 561 acres, and churches and other institutional uses occupy 149 acres.

### **Residential Growth Rate**

Livermore has had a residential growth policy in place since 1976. The residential growth rate was initially established at two percent on a first-come, first-served basis for developers. By 1979, this strategy evolved into the Residential Development Policy (RDP), which required an extensive project review process in order to establish priority for individual development projects. In 1988, the RDP was replaced by the three-year Housing Implementation Program (HIP), which permitted a growth rate of between 1.5 percent and 3.5 percent annually for a three-year period. The HIP permits the City to target specific types of housing and growth management objectives in each three-year period (see LU 2.1 and subsequent policies and actions). As part of the 2003 General Plan update, the growth rate was changed to a numerical range between 140 and 700 dwelling units per year, equivalent to a 0.5 to 2.5 percent growth rate, based on the existing number of dwelling units as of November 2002, as stated in policy LU-2.1.P6.

TABLE 3-1 2002 EXISTING LAND USES

Existing Land Uses	*Net Acres Within City Limits
<b>Single-Family Residential</b>	
Detached Single-Family Residential	3,919
Couplet and Zero Lot Line Residential	123
Townhouse Residential	172
Mobile Home	63
Rural Residential	846
<b>Total</b>	<b>5,123</b>
<b>Multi-Family Residential</b>	
Condominium Residential	55
Duplex, Triplex or Fourplex	83
Apartment (5 or more dwellings)	241
Group Quarters	21
<b>Total</b>	<b>400</b>
<b>Office</b>	<b>248</b>
<b>Retail</b>	<b>561</b>
<b>Industrial</b>	
Manufacturing	369
Research and Development	23
Warehousing	118
Construction Services	241
Repair Services	78
Wholesale Trade	131
<b>Total</b>	<b>960</b>
<b>Public Uses</b>	
Educational	414
Governmental Offices	41
Utility, Government Service	252
Medical	26

<i>Total</i>	<b>703</b>
<b>Churches and Institutions</b>	
Religious Uses and Private Clubs	132
Cemeteries, Crematories, Mortuaries	17
<i>Total</i>	<b>149</b>
<b>Parks and Recreation</b>	
Recreational Park (Golf Course)	353
Private Recreational	196
Entertainment and Recreation	62
Local Park	331
Trailways and Creeks	473
Habitat Areas	282
<i>Total</i>	<b>1,696</b>
<b>Agriculture</b>	
Agricultural Uses	1,061
Agricultural Product Sales	7
<i>Total</i>	<b>1,068</b>
<b>Airport**</b>	400
<b>Undeveloped Parcels</b>	<b>1,785</b>
<i>Total</i>	<b>13,123</b>

Source: City of Livermore, 2002.

\*Total acres provided are “net” and exclude public right-of-way areas.

\*\*Airport acreage identified represents the area used for Airport operations, including required FAA safety areas. Total area owned by the Airport, including portions used for agriculture which are additional safety areas, is 643 acres.

### Urban Growth Boundary

Livermore is completely surrounded by an Urban Growth Boundary (UGB). The location of the UGB is shown in Figure 1-2. This boundary is intended to protect existing agricultural uses and natural resources outside the City from future urban development.

Livermore's UGB was completed in two phases. The *South Livermore Urban Growth Boundary Initiative*, passed by local voters in March 2000, established the UGB around the southern edge of the City. In December 2002, the City Council passed the *North Livermore Urban Growth Boundary Initiative*, which completed the UGB around the northern edge of the City. While both UGBs share goals of preserving agriculture and open space and preventing urbanization, the policies regarding development beyond each UGB and changes to each UGB are different. These policies are discussed in greater detail under Objectives LU-5.1, 5.2, 10.1, 11.1, 17.1, 18.1, 19.1, and in Section F, Allowed Development in South Livermore.

### **Jobs/Housing Balance and Match**

Jobs/housing balance is a measure of the number of jobs available in a specific area compared to the number of housing units in the same area – or, more precisely, the number of employed residents living in these housing units. As of 2002, Livermore had a fairly healthy jobs/housing balance, with 1.5 jobs for each housing unit, resulting in about one job for every employed resident. However, a more critical tool in assessing the environmental and economic sustainability of a community is its jobs/housing match. Jobs/housing match compares the wages paid by the jobs in an area with the cost of housing in the area. In 2002, Livermore had relatively expensive housing units compared to relatively lower paying jobs; it lacked affordable housing for lower paid workers and higher paying jobs for residents of more expensive housing. The process of matching types of jobs and wages with housing costs is critical to address potential traffic congestion and other growth impacts. The General Plan seeks to attain a jobs/housing balance and match without compromising other commitments.

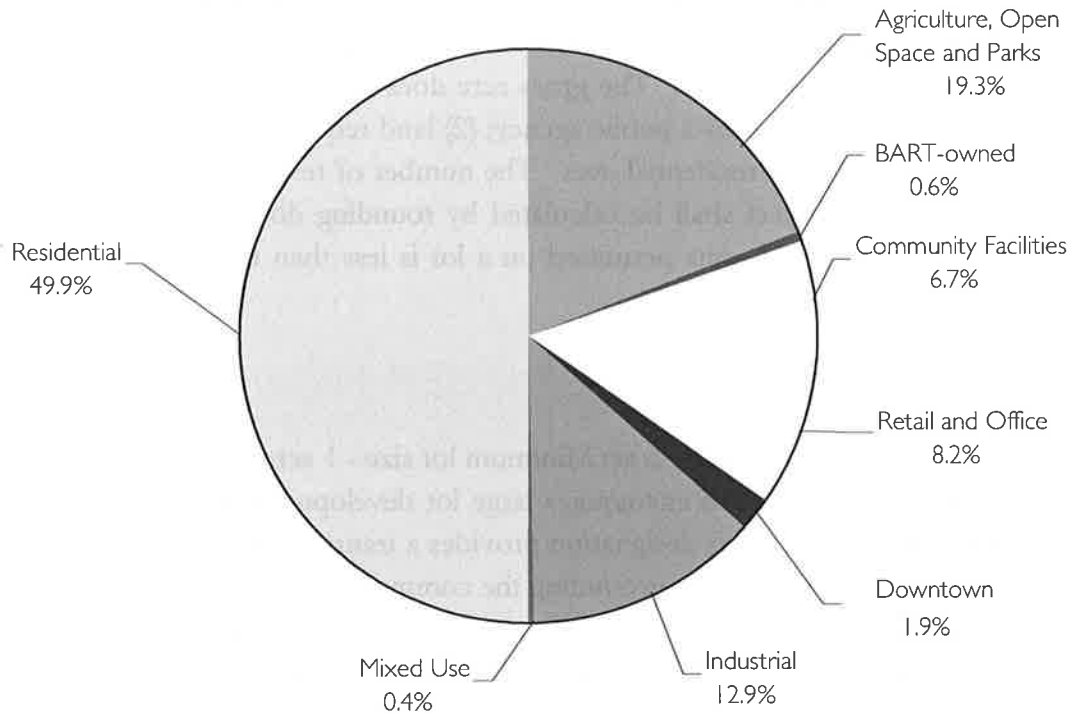
### ***B. Land Use Designations***

This section provides descriptions of land use designations within the City limits. All new development in the City must conform to these designations. Public and quasi-public uses are not described in this section, but are conditionally allowed in all land use designations. Public and quasi-public uses are typically valued as important to community identity and function.



FIGURE 3-2

**2002 Comparative Acreage of General Plan Land Use Categories**



Public and quasi-public uses include public and private schools; civic, community, and government buildings and uses; fire and police stations; churches; museums; parks; hospitals; and similar essential services. Within the Open Space designation, however, only parks, trails, and similar recreational areas and their related facilities and uses are allowed as public or quasi-public uses. Figure 3-2 shows the comparative acreage of General Plan Land Use Designations within City limits in 2002. Land use designations are mapped on Figure 3-3.

**Residential Development**

Thirteen levels of residential development are shown on the General Plan Map to accommodate different densities and housing styles. Each residential density is expressed in terms of a number of dwelling units per acre, where “acre” refers to gross acres including all the

land within the boundaries of the property. Gross acre may include all or a portion of adjacent street frontage, which is the area between the street right-of-way boundary and the mid-line of the adjacent fronting streets (except freeways or highways). Properties with more than one street frontage may only use the longest street frontage for purposes of calculating residential density. Where appropriate, residential density calculations may be based on a designation-wide/district-wide basis. The gross acre does not include any of the following: (1) land that is to be purchased by a public agency; (2) land required for parkland dedication; or (3) land proposed for non-residential uses. The number of residential units permitted on each parcel or in each project shall be calculated by rounding down to the nearest whole number when the number of units permitted on a lot is less than the next whole number. (Reso. 2005-178; Reso. 2006-245)

#### Land Use Designations

*Rural Residential (RR)* (1 du/ac - 1 du/5 ac; Minimum lot size - 1 acre.)

The Rural Residential designation encourages large lot development with a rural character, generally on the urban edge. This designation provides a transition between developed areas and the agricultural and open areas surrounding the community.

*Urban Low Residential (UL)* (UL-1: 1 - 1.5 du/ac; UL-2: 1.5 - 2.0 du/ac)

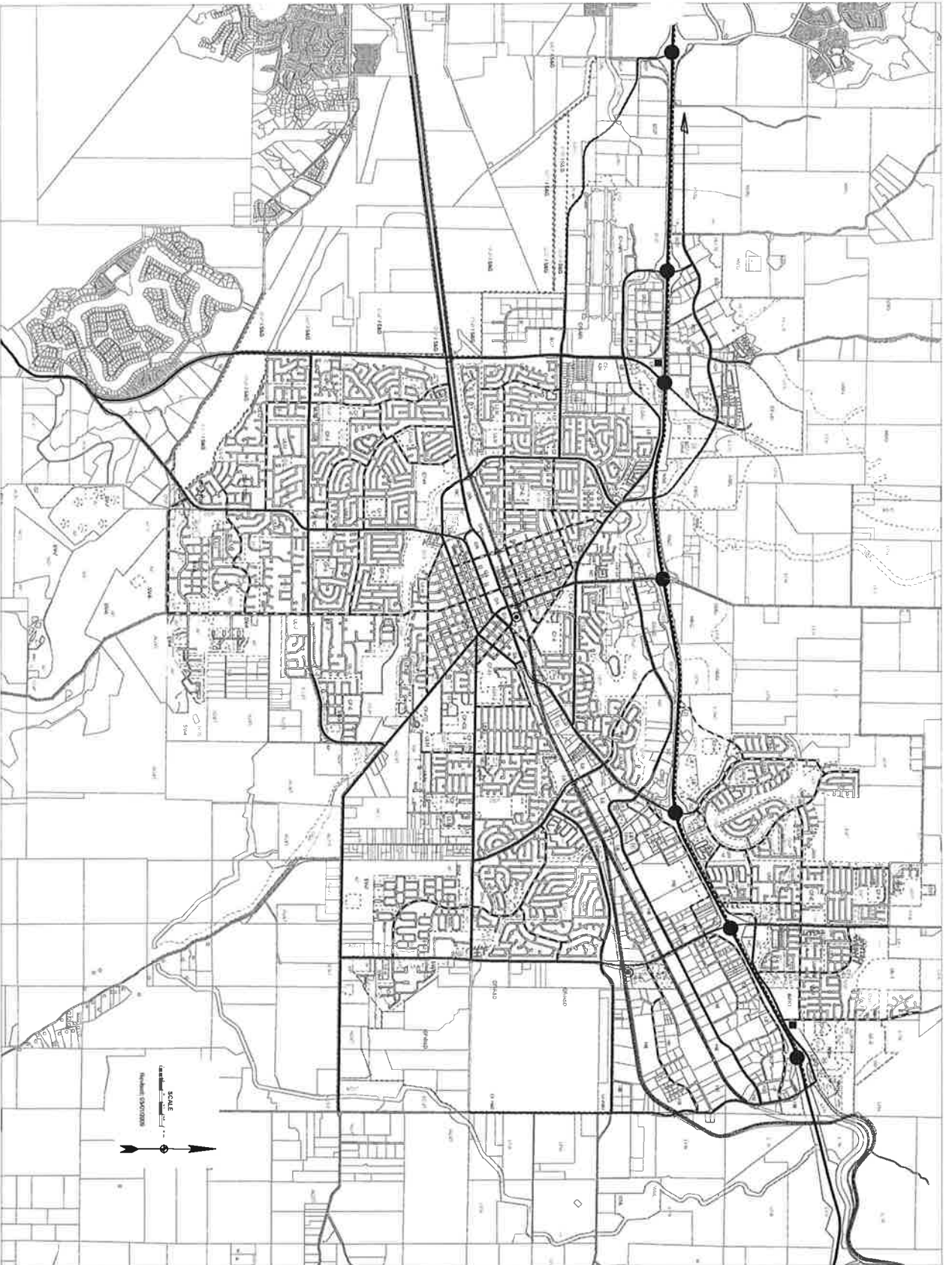
Areas designated as Urban Low Residential may be either rural in character or may be developed at a higher density with compensable open space utilizing clustering of development.

*Urban Low Medium Residential (ULM)* (2.0 - 3.0 du/ac)

The Urban Low Medium Residential designation applies to a significant portion of the City used for residential purposes, as identified on the General Plan Map. These areas provide a transition from lower densities at the edges of town to the higher densities in the center of the community.

FIGURE 3-3

GENERAL PLAN  
LAND USE MAP



back of FIGURE 3-3

*Urban Medium Residential (UM) (3.0 - 4.5 du/ac)*

The Urban Medium Residential designation also applies to a significant area used for residential land uses. These areas are generally located closer to the center of the community and in areas surrounding commercial development.

*Urban Medium High Residential (UMH) (4.5 - 6.0 du/ac)*

This designation accommodates a higher-density development than Urban Low Medium and Urban Medium designations. This designation encourages the use of “clustering” residential development patterns to ensure the reservation of urban open spaces.

*Urban High Residential (UH) (Categories 1-6)*

These designations accommodate the highest range of residential densities in the City. They provide attached housing types such as townhouses, garden apartments, and apartments.

*Category 1 (UH-1): (6 - 8 du/ac)*

Category 1 of this designation is allowed in the central and outlying areas within the City. Both attached and detached units are possible under this designation.

*Category 2 (UH-2): (8 - 14 du/ac)*

Category 2 of this designation is allowed in the central and outlying areas within the City. Townhouses and duplexes are typical under this designation.

*Category 3 (UH-3): (14 - 18 du/ac)*

Category 3 is located in areas near major roads with adequate infrastructure, public services, and amenities to support higher densities. This category is intended to provide housing opportunities for all income groups in the community, including affordable housing. Townhouses and garden apartments are typical under this designation.

*Category 4 (UH-4): (18 - 22 du/ac)*

Category 4 is located in areas near major roads, with adequate infrastructure, public services and amenities to support higher densities. This category is intended to provide housing opportunities for all income groups in the community. Townhouses and apartments are typical under this designation.

*Category 5 (UH-5):* (22 - 38 du/ac)

Category 5 is located in areas in or adjacent to Transit Oriented Development (TOD), near major roads with adequate infrastructure, public services, and amenities to support higher densities. This category is intended to provide housing opportunities for all income groups in the community, including affordable housing. Primarily apartments, condominiums, and townhouses are typical under this designation.

*Category 6 (UH-6):* (38 - 55 du/ac)

Category 6 is located in areas in or adjacent to Transit Oriented Development (TOD), near major roads with adequate infrastructure, public services, and amenities to support higher densities. This category is intended to provide housing opportunities for all income groups in the community, including affordable housing. Primarily apartments, condominiums, and townhouses are typical under this designation.

*Transferable Development Credit (TDC) Receiving Site Designations*

The residential categories listed above apply when the designation of a parcel is not subject to the Transferable Development Credits (TDC) Program provisions. Parcels shall be subject to TDC Program provisions when the 2003 General Plan or any subsequent general plan amendments result in new residential land use designations or an increase in residential density. Where a parcel is subject to TDC requirements, the land use designation shall incorporate the following provisions. These provisions implement the *North Livermore Urban Growth Boundary Initiative's* requirement to provide a use for credits granted for the preservation of land in North Livermore. In specific plan areas, the specific plan itself states TDC requirements, if any apply.

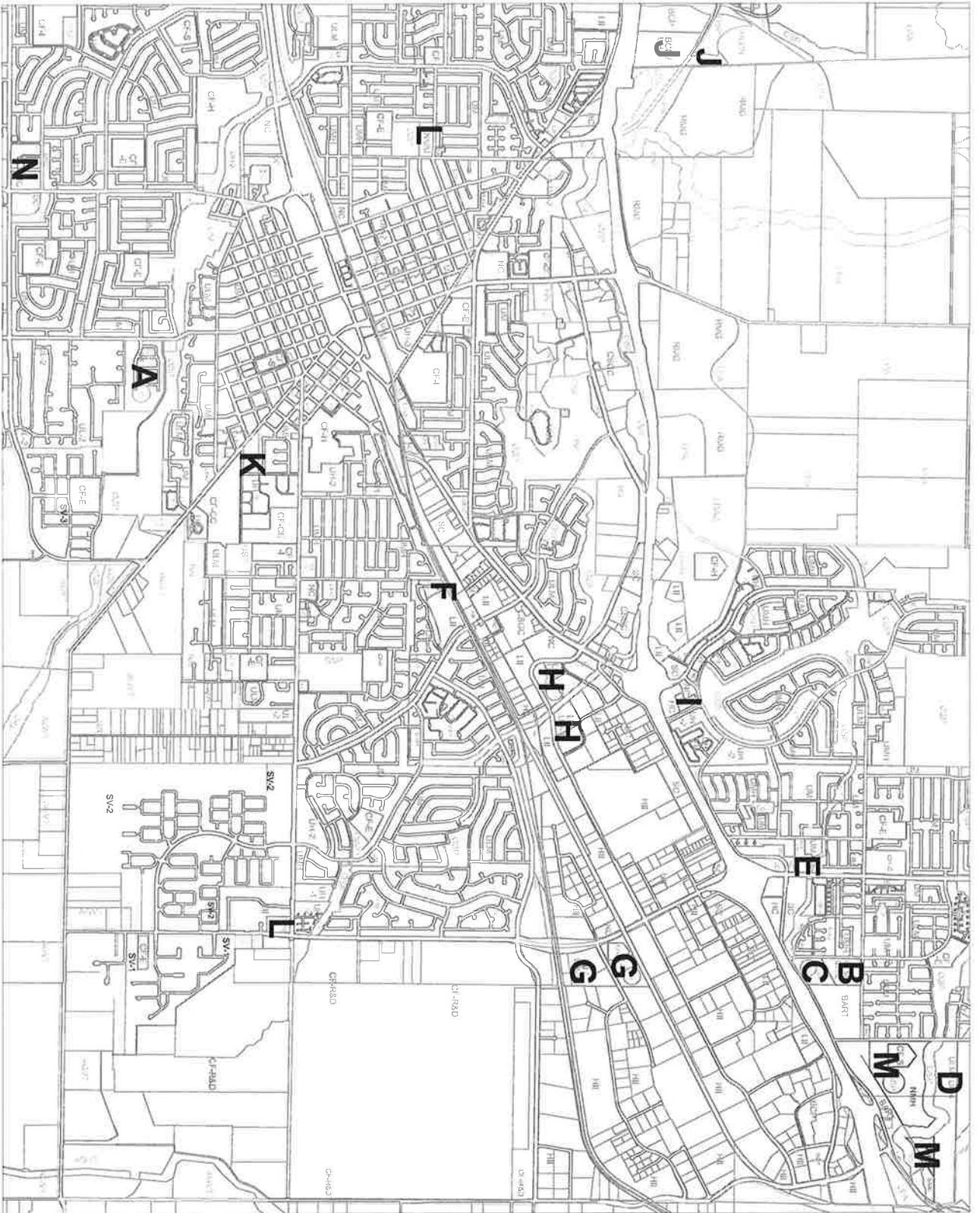


FIGURE 3-4

**TDC RECEIVER SITES**

**TDC Designations**

- A** RR/UM
- B** ULM/UH-2
- C** ULM/UH-3
- D** UMH/UH-4
- E** UMH/UH-2
- F** LI/ULM
- G** HI/UH-3
- H** LI/UH-3
- I** NC/UH-3
- J** BCP/UH-4
- K** NML
- L** NMM
- M** NMH
- N** OC/UH-2

Amendment  
Resolutions  
2006/046  
2007/039

back of Figure 3-4



Each residential designation subject to the TDC provisions contains a baseline density achievable without the need to comply with the City's TDC Ordinance through the acquisition of transferable development credits (TDCs) or payment of an in-lieu fee if one is adopted. This baseline density is equal to the maximum density allowed without the use of TDCs. The baseline density shall be equal to the maximum density allowed prior to the adoption of the 2003 General Plan or any subsequent general plan amendments that result in new residential land use designations or an increase in residential density. Applicants who wish to exceed this baseline density must comply with the City's TDC Ordinance by purchasing TDCs or paying an in-lieu fee, if one is adopted. Under the TDC option, total development shall not exceed the maximum density allowed under the General Plan designation.

For projects that incorporate affordable or other types of special housing as defined by the TDC Ordinance and/or utilize designated State, county, or City incentive density bonus programs, the City Council may waive some or all of the TDC requirement and/or increase the baseline density.

To promote awareness of these TDC provisions, the General Plan Land Use Map shall identify TDC receiving areas by means of a two-part classification. The first part of the classification indicates baseline or maximum density allowed when developers choose not to use the TDC option. The second part of the classification states the maximum density allowed when developers choose to exceed the baseline density and comply with the requirements of the City's TDC Ordinance. The following list identifies the TDC receiving area classifications. The letters preceding each classification correspond to Figure 3-4 (*TDC Receiving Areas*) indicating the location of these TDC receiving areas.

*Type A – Rural Residential/Urban Medium Residential (RR/UM)*

Baseline of 1 du/ac – 1 du/5 ac (the maximum density when developers decline to use TDC option) or a maximum of 3 du/ac – 4.5 du/ac maximum when developers choose to exceed the baseline and comply with City's TDC Ordinance.

*Type B – Urban Low Medium Residential/Urban High Residential-2 (ULM/UH-2)*

Baseline of 2 du/ac – 3 du/ac (the maximum density when developers decline to use TDC option) or a maximum of 8 – 14 du/ac when developers choose to exceed the baseline and comply with City's TDC Ordinance.

*Type C — Urban Low Medium Residential/Urban High Residential-3 (ULM/UH-3)*

Baseline of 2 du/ac – 3 du/ac (the maximum density when developers decline to use TDC option) or a maximum of 14 – 18 du/ac when developers choose to exceed the baseline and comply with City's TDC Ordinance.

*Type D – Urban Low Medium Residential/Urban High Residential-4 (ULM/UH-4)*

Baseline of 2 du/ac – 3 du/ac (the maximum density when developers decline to use TDC option) or a maximum of 18 – 22 du/ac when developers choose to exceed the baseline and comply with City's TDC Ordinance.

*Type E – Urban Medium High Residential/Urban High Residential-2 (UMH/UH-2)*

Baseline of 4.5 du/ac - 6 du/ac (the maximum density when developers decline to use TDC option) or a maximum of 8 – 14 du/ac when developers choose to exceed the baseline and comply with City's TDC Ordinance.

*Type F – Low Intensity Industrial/Urban Low Medium (LII/ULM)*

Baseline of 0 du/ac (developers who decline to use TDC option choose to use the industrial designation, which allows no residential development). Developers who choose the TDC option and comply with the City's TDC Ordinance can build a maximum residential density of 2 du/ac – 3 du/ac.

*Type G – High Intensity Industrial/Urban High Residential-3 (HII/UH-3)*

Baseline of 0 du/ac (developers who decline to use TDC option choose to use the industrial designation, which allows no residential development). Developers who choose the TDC option and comply with City's TDC Ordinance can build a maximum residential density of 14 – 18 du/ac.

*Type H – Low Intensity Industrial/Urban High Residential-3 (LII/UH-3)*

Baseline of 0 du/ac (developers who decline to use TDC option choose to use the industrial designation, which allows no residential development). Developers who choose the TDC option and comply with City's TDC Ordinance can build a maximum residential density of 14 – 18 du/ac.

*Type I- Neighborhood Commercial/Urban High Residential -3 (NC/UH- 3)*

Baseline of 0 du/ac (developers who decline to use TDC option choose to use the commercial designation, which allows no residential development). Developers who choose the TDC option and comply with City's TDC Ordinance can build a maximum residential density of 14-18 du/ac. (Reso. 2006-246)

*Type J – Business & Commercial Park/Urban High Residential-4 (BCP/UH-4)*

Baseline of 0 du/ac (developers who decline to use TDC option chose to use BCP designation, which allows no residential development). Developers who choose the TDC option and comply with the City's TDC Ordinance can build a maximum residential density of 18 – 22 du/ac.

*Type N – Office Commercial/Urban High Residential-2 (OC/UH-2)*

Baseline of 0 du/ac (developers who decline to use TDC option choose to use the commercial designation, which allows no residential development). Developers who choose the TDC option and comply with the City's TDC Ordinance can build a maximum residential density of 8-14 du/ac. (Reso. 2007-239)

## **Commercial Development**

Five basic commercial use designations are shown on the General Plan Land Use Map in Figure 3-3: Service Commercial, Highway Commercial, Neighborhood Commercial, Community Serving General Commercial, and Office Commercial. Downtown commercial is described in the *Mixed-Use* section, below. Commercial designations encourage a range of conveniently located goods and services that meet the needs of Livermore residents, and also include measures to reduce competition between Downtown and other large retail centers in the City. Allowed building intensity for commercial uses are described by Floor Area Ratio (FAR).

*Land Use Designations*

*Service Commercial (SC) (.30 FAR)*

Service Commercial uses, which support other activities in the Downtown, include auto sales and service, nurseries, home maintenance centers and wholesale establishments. This designation is applied to areas outside of the Downtown along major streets, in the general vicinity of freeway interchanges, or at other locations with significant access potential from the community at large.

*Highway Commercial (HC) (.30 FAR)*

The Highway Commercial designation is applied to commercial development near I-580 interchanges and is intended to primarily serve the traveling public. Future expansion of highway commercial development shall be limited to the freeway interchange locations that are consistent with visual resource policies. Appropriate uses include hotels and motels, restaurants, and motor vehicle and gasoline service stations. Additional uses include freeway-dependent uses and freeway signs, which provide services to the traveling public and allow for convenient freeway access. Since Highway Commercial areas are also visible from the interstate and function as gateways to the community, the City shall prepare specific development plans for these areas to ensure they are attractive. Freeway uses and signs shall be located within freeway quadrants to provide services to the traveling public while allowing for visibility and convenient freeway access.

*Neighborhood Commercial (NC) (.30 FAR)*

Neighborhood Commercial areas will serve neighborhood convenience shopping needs. Neighborhood Commercial areas are defined as planned commercial centers, with a grocery store and smaller supporting uses, located on a major arterial. Neighborhood Commercial areas shall be limited to general daily service needs. Examples of uses that serve a daily need are large grocery stores, drug stores, informal restaurants, video stores and personal services such as beauty salons and dry cleaners. Examples of existing Neighborhood Commercial areas in Livermore are Vintner Square (First and P Streets), Arroyo Park (First Street and Las Positas Road), Granada Shopping Center (Concannon Boulevard and Holmes Street), Portola Village (Portola Avenue and North Livermore Avenue), and Peppertree Plaza (Murrieta Avenue and Stanley Boulevard). Neighborhood-serving professional and commercial of-

fices, such as real estate offices, law offices, insurance agencies, or medical offices, are also appropriate.

*Community Serving General Commercial (CSGC) (.30 FAR)*

The Community Serving General Commercial (CSGC) designation provides for commercial uses appropriate to locations outside of the Downtown, in areas with significant access potential from the region and the community at large. The CSGC designation identifies locations along major streets, and adjacent and accessible to a highway or freeway, where any one or combination of significant community serving retail, office, and service activity is appropriate. A broad range of potential commercial uses are appropriate. The precise commercial mix and uses will be identified at the time of zoning or specific project review. In general, the CSGC encourages the location of commercial uses generally consisting of a size, bulk, and coverage found in a regional retail shopping center environment, including:

- ◆ Destination-oriented prime retail tenants and accessory retail uses;
- ◆ Business and commercial services; and
- ◆ Professional and administrative offices.

CSGC areas will be compatible with surrounding land uses, including surrounding commercial activity, and will complement commercial uses within the Downtown. The CSGC will be implemented through the Planned Development (PD) zoning district process utilizing market research, site design, and access to assure that community impacts have been identified and fully ameliorated. The PD Zoning District would identify the appropriate range of land uses and development standards consistent with the intent of the designation to ensure compatibility within the development and with adjacent land uses.

*Office Commercial (OC) (.30 FAR)*

The Office Commercial designation applies to areas throughout the City, and is intended to have minimum to no adverse impacts upon immediate neighborhoods and residential character. Office Commercial areas provide sites for offices for medical, legal, insurance, and similar uses. In order to ensure maximum compatibility with land use development patterns, these areas preclude retail and commercial service type uses.

## **Mixed-Use**

Mixed-use development allows or encourages different but compatible uses to be located in close proximity to each other. A common example of mixed-use is a two- or three-story building with retail or office space on the ground floor and apartments on the upper floors. Mixed-use development provides housing close to jobs and services, thereby reducing the need to drive and encouraging people to walk or bike to their destination. Mixed-use development is also often located around transit services, increasing transit usage and reducing automobile dependency.

### Land Use Designations

#### *Downtown Area (DA)*

The Downtown Area (DA) designation is a general designation that applies to the area traditionally known as Downtown Livermore. The DA seeks to provide a unique, locally-oriented, pedestrian-friendly shopping environment. Higher-intensity residential development of a density that will support the predominantly commercial environment is integral to the economic viability of this district. This area encompasses approximately 270 acres and supports a variety of mixed uses, including commercial, office, entertainment, cultural arts, lodging, and residential. Anticipated maximum development potential in the DA analyzed in the Final Environmental Impact Report (FEIR) prepared and certified in 2003 and the Subsequent FEIR certified in 2009 for the General Plan and Downtown Specific Plan, by land use, is as follows: Commercial – 1,000,000 square feet; Office – 356,000 square feet; Entertainment – 2,500 performance art seats and up to 15 movie theater screens; Lodging – 300 rooms; and Residential – 3,600 units (Reso. 2009-055). Land uses, development, and redevelopment in the Downtown Area shall be implemented through a specific plan. More specific designations, development standards, design requirements, and land use specifications applicable to the Downtown are provided in the Downtown Specific Plan.

The initial maximum residential development potential within the Downtown Area shall be 2,000 new units as of February 2004. After approval of 1,400 new residential units, the City Council shall review the progress of the implementation of the specific plan. The City Council shall consider increasing the maximum number of new dwellings to 3,259 from the February 2004 base number, for a build-out total of 3,600 residential units, unless there is a

compelling reason not to implement the build-out scenario analyzed in the FEIR prepared and certified for the 2003 General Plan and Downtown Specific Plan.

*Neighborhood Mixed-Use (NM)*

The Neighborhood Mixed-Use designations are intended to help improve the pedestrian orientation of Livermore's neighborhoods by providing neighborhood commercial services within walking distance of existing residents and integrating housing with commercial development on a single site. Mixed residential and commercial land uses are encouraged, but not required, to be provided at these sites. Commercial projects developed wholly or partially with commercial uses must be consistent with the Neighborhood Commercial (NC) designation. Projects developed primarily for residential uses must provide a minimum of 20-percent floor area for commercial uses. Section H (*New Mixed-Use Neighborhoods*) discusses particular requirements for two specific mixed-use planning areas, being the East Side Transitional Areas and the Greenville BART Transit Oriented Development (TOD) Area. (Reso. 2005-178)

Parcels designated Neighborhood Mixed-Use are TDC receiving areas. As with all of the residential receiving areas described above, developers can achieve a baseline density for residential development on land with these classifications without complying with the City's TDC Ordinance. To exceed the baseline density, developers must comply with the TDC Ordinance, but in no event can developments exceed the maximum density allowed by these designations. The letters preceding each classification correspond to Figure 3-4 (*TDC Receiving Sites*) indicating the location of these TDC areas.

*Type K – Neighborhood Mixed-Use Low Density (NML)*

A maximum of .30 FAR is allowed for the commercial portion development on these sites. The residential baseline density is 2 du/ac – 3 du/ac (maximum density when developers decline to use TDC option) or 12 du/ac – 15 du/ac maximum when developers choose to exceed the baseline density and comply with City's TDC Ordinance.

*Type L – Neighborhood Mixed-Use Medium Density (NMM)*

A maximum of .30 FAR is allowed for the commercial portion development on these sites. The residential baseline density is 3 du/ac – 4.5 du/ac (maximum density when developers

decline to use TDC option) or 15 du/ac – 24 du/ac maximum when developers choose to exceed the baseline density and comply with City's TDC Ordinance.

*Type M – Neighborhood Mixed-Use High Density (NMH)*

A maximum of .30 FAR is allowed for the commercial portion development on these sites. The residential baseline is 6 du/ac – 8 du/ac (maximum density when developers decline to use TDC option) or 24 du/ac – 38 du/ac maximum when developers choose to exceed baseline and comply with City's TDC Ordinance.

**Industrial Development**

Industrial designations are applied to certain areas of the City where existing industrial use occurs or where industry can be isolated or buffered from residential uses. The three industrial designations included on the General Plan Land Use Map are Business and Commercial Park, High Intensity Industrial, and Low Intensity Industrial. Many of the areas designated for industrial uses are located near the Airport and freeway interchange approaches to the City. Therefore, quality site planning and design standards should be carefully applied in order to maintain an attractive image of the City.

*Land Use Designations*

*Business and Commercial Park (BCP)* (Site coverage provided by use)

This designation identifies locations along major streets, and in the general vicinity of freeway interchanges, where a mix of limited service and highway commercial, community/regional commercial retail, office and light industrial activities may be appropriate. The BCP designation encourages the development of employment-generating activities adjacent to destination-oriented and limited retail commercial uses. In addition to office and light industrial activities, uses could include large, planned commercial centers or stand-alone big-box retailers with service uses of a scale and function to serve both surrounding employment-generating activities and the regional market.



The BCP designation is placed on areas of a minimum of 20 acres where it will promote the location of:

- ◆ Community/regional commercial uses that, due to their size and land requirements, have specialized locational criteria, including:
  - Large, destination-oriented retail commercial uses (e.g. factory outlet centers, warehouse wholesale/retail stores) (Maximum site coverage - .30)
  - Large commercial service uses (e.g. home improvement centers, furnishings and appliance stores, automobile and recreational vehicles sales) (Maximum site coverage - .30)
- ◆ Professional and administrative offices (Maximum site coverage - .40)
- ◆ Highway-oriented commercial uses where appropriate (e.g. hotel/motel, convention center) (Maximum site coverage - .40)
- ◆ Support and ancillary services (e.g. restaurants, service stations) (Maximum site coverage - .50)
- ◆ Low Intensity Industrial uses compatible with the above uses. (Maximum site coverage - .45)

*Low-Intensity Industrial (LII)* (Maximum site coverage - .45)

Appropriate uses for this designation include manufacturing, warehousing, research and development facilities, fully-enclosed recycling facilities, and administrative and professional offices. Unlike uses within the High-Intensity Industrial designation, light industrial uses should not include objectionable levels of noise, vibration, odors, glare, or hazard that would create a nuisance for surrounding uses. Low-intensity industrial uses are focused around the Municipal Airport. Low-intensity industrial uses are also located within the area east of the Airport runway but may not violate the “clear zone” restrictions, or impact existing residential areas.

*High-Intensity Industrial (HII)* (Maximum site coverage - .60)

Appropriate uses for this designation include manufacturing, warehousing, research and development facilities, recycling facilities, and heavy industry that uses, stores, or processes raw materials. The High-Intensity Industrial designation is intended to provide an insulated area for uses that may be objectionable in other areas due to noise, odors, vibration, glare or hazards. High-intensity industrial uses are concentrated between Patterson Pass Road and I-580, generally between Mines Road and Greenville Road.

**Open Space and Agriculture**

Open Space and Agriculture designations are applied primarily to outlying areas of the City, creating a “greenbelt” around the City and preserving Livermore’s agriculture and scenic vistas. There are eight Open Space and Agriculture designations, reflecting various levels of use and resource protection.

*Land Use Designations*

*Open Space (OSP)*

The Open Space designation is applied to areas to be maintained as permanent or semi-permanent open space. This designation may be applied to areas that are already open space, and those that should remain open space because they have valuable natural or scenic resources, or because they are unsuitable for development due to environmental hazards. This designation includes parks, trailways, recreation areas, recreation corridors, and protected areas, such as creeks and arroyos, or similar open space uses determined appropriate for the site. All proposed structures on parcels designated OSP are subject to City Design Review. General locations for potential future park facilities are indicated on the General Plan Land Use Map by a floating designation as a circular symbol and the text “OSP.” Floating designations indicate the need for the facility within the general area of the City where future need for this facility is anticipated. Floating designations are not intended to be site specific.

*Agriculture/Viticulture (AGVT)* (100-acre site minimum; 1 du/100 ac)

Agriculture/Viticulture areas have been designated to preserve and promote agriculture and viticulture uses in locations suitable for cultivated agriculture, and to protect sensitive or unique environmental and land characteristics, including an area’s rural character. Additional

discussion on the AGVT designation is provided in Land Use Element Section F, *Allowed Development in South Livermore Valley*, including provisions for a Rural Density Program.

*Limited Agriculture (LDAG)* (20-acre minimum site)

The Limited Agriculture designation applies to those areas where 20-acre parcels may be appropriate due to existing parcel size. Appropriate uses are similar to those in the Agriculture/Viticulture designation. This designation may be used to create a transition between the areas of Large Parcel Agriculture or Agriculture/Viticulture surrounding the City and the low-density residential areas on its outskirts.

*Hillside Conservation (HLCN)* (1 du/20 ac to 1 du/100 ac)

The intent of this designation is to protect the natural resources of hillside areas, avoid development in areas with potentially hazardous hillside conditions, maintain the visual quality of hills and ridgelines, create a public trail system, and retain the existing rural character and small-scale agriculture of the area. This designation establishes a series of performance standards for determining density, based on physical and environmental features such as slope gradient, ridgelines, and existing and potential landslides. Relatively unconstrained sites, those with slopes below 20 percent gradient, will be permitted up to 1 dwelling unit per 20 acres; sites with steeper slopes and additional constraints will be permitted 1 unit per 100 acres. No development is permitted on the steepest slopes or ridgetops. However, these areas may be given a density credit of 1 unit per 100 acres that could be transferred to other portions of the property or within the Hillside Conservation designation when using a specific plan.

*Large Parcel Agriculture (LPA)* (100-acre minimum site)

This is a designation from the Alameda County East County Area Plan (ECAP) that applies to locations outside the City UGB but within the Planning Area. Only the following uses, as identified in the *North Livermore Urban Growth Boundary Initiative*, and their normal and appropriate accessory uses and structures (as well as uses preemptively authorized by federal and State law), may be permitted in North Livermore, including: agricultural uses, agriculture processing facilities, limited agricultural support uses, secondary residential uses, visitor serving commercial facilities, recreational uses, public and quasi public uses, solid waste landfills and related waste management facilities, quarries, wind farms and related facilities, utility cor-

ridors, and similar uses compatible with agriculture. This is the default designation for undesignated parcels on the General Plan Land Use Map.

*Resource Management (RMG)* (100-acre minimum site size; 1 du/parcel)

This is also a designation from the ECAP. It is intended mainly for land designated for long-term preservation as open space, but may include low-intensity agricultural or residential uses. The Resource Management designation provides for agricultural uses, recreational uses, habitat protection, watershed management, public and quasi-public uses, secondary residential units, active sand and gravel and other quarries, reclaimed quarry lakes, and similar and compatible uses. This designation is also applied to areas unsuitable for development because of public health and safety hazards or environmentally-sensitive features. One single-family home per parcel is allowed provided that all relevant development standards are met.

*Water Management Lands (WML)* (100-acre minimum site; 1du/parcel)

This designation is also from the ECAP. It provides for active sand and gravel quarries, reclaimed quarry lakes, watershed lands, arroyos and similar and compatible uses. One single-family home per parcel is allowed provided that all relevant development standards are met.

*Open Space/Sand and Gravel (OSP/S & G)*

These are areas of Statewide concern due to their demonstrated level of quality aggregate. The primary use allowed in areas designated OSP/S & G is open space, as defined above under Open Space (OSP), and sand and gravel extraction, processing and related activities shall be secondary. Use of S & G lands for agricultural use shall be given priority over mineral extraction in areas where the soils are designated for prime or unique farmland. Extraction of aggregate shall be conditionally permitted only after appropriate mitigation for potential impacts to environmental resources and surrounding uses has been provided. Processing and distribution of aggregate uses shall be limited to ensure that impacts on downwind land uses are appropriately mitigated.

## Community Facilities

The Community Facilities designation provides areas for public agencies and institutions, including City, County, State and federal government facilities, Livermore Valley Joint Unified School District property, and the Livermore Municipal Airport. General locations for potential community facilities (i.e., schools and parks) are indicated on the General Plan Land Use Map by a floating designation; parks are indicated by a circular symbol and the text “OSP,” and schools are indicated by a building-shaped symbol and the text “CF-S” or “CF-H.” Floating designations indicate the need for the facility within the general area of the City where future need for these facilities is anticipated. Floating designations are not intended to be site specific. Community Facility designations identify areas for the following specific public uses:

### Land Use Designations

*CF-Elementary School (CF-E)*

*CF-Intermediate School (CF-I)*

*CF-High School (CF-H)*

*CF-Community College (CF-JC)*

*CF-Fire Station (FS)*

*CF-Civic Center (CF-CC)*

*CF-Cemetery (CF-CE)*

*CF-Government Services (CF)*

*CF-Airport (CF-AIR)*

*CF-Post Office (PO)*

*CF-Hospital (HOSP)*

*CF-BART (BART)*

*CF-Government Research and Development (CF-R&D)*

### *C. Goals, Objectives, Policies, and Actions*

<b>Goal LU-1</b> <b>Protect the unique qualities of Livermore, which include a historic Downtown, a variety of residential neighborhoods, vineyards, ranches, natural habitats and open space.</b>
--

**Objective LU-1.1**    **Locate new development so as to create a consolidated pattern of urbanization, maximizing the use of existing public services and facilities.**

#### Policies

- P1.    *Except where special conditions warrant, the City shall allow development only on those properties immediately adjacent to established urban areas, in accordance with the North Livermore Urban Growth Boundary Initiative. (NLUGBI)*
- P2.    Residential development shall be limited to those areas within the UGB.
- P3.    The City shall annex all lands currently under County jurisdiction and within the UGB prior to development in areas designated for urban uses.
- P4.    The City shall encourage the use of the planned development concept where possible to decrease construction costs, provide open space, increase the variety of housing types and provide integrated very low-, low-, and moderate-income housing.

#### Actions

- A1.    Maintain a file in the Community Development Department of vacant residential acreage which provides an inventory of land suitable for single-family and multi-family residential development, in accordance with Housing Element goals, programs, and objectives. Maintain maps indicating current zoning as well as public facilities and services to these sites. In addition, identify sites which could be made available through changes in zoning on the General Plan Map.

- A2. Periodically review and, as necessary, update City codes and regulations for consistency with General Plan policy.

**Objective LU-1.2 Create neighborhoods that include a mix of uses and a range of housing types to meet the needs of all residents.**

Policy

- P1. Where possible, neighborhood and community commercial uses shall be integrated with public uses in similar areas as comprehensively designed service centers that include public facilities, day care centers, multi-purpose meeting places, health care facilities, housing for the elderly, transportation centers, and schools.

**Objective LU-1.3 Utilize the transferring of density in order to preserve environmentally and aesthetically sensitive areas.**

Policies

- P1. The density transfer must be based upon a “general public benefit,” such as removing density from a hillside location to a valley location with fewer environmental and aesthetic consequences.
- P2. *The density transfer must involve a “receiving site.” (NLUGBI)*
- P3. *The final density of a receiving site must fall within the designated range of density specified for the site. (NLUGBI)*
- P4. Any transfer must look at the total “public benefit facility” capacity serving the receiving site. That is, there needs to be sufficient infrastructure (roads, water, sewer, storm drainage, etc.) and public services (police, fire, schools, etc.).

**Objective LU-1.4 Encourage commercial development that will support and enhance a vibrant Downtown and serve existing neighborhoods.**

Policies

- P1. The Downtown shall serve as the primary local commercial area and as the City's historic and pedestrian-oriented retail shopping area within the period of the General Plan.
- P2. The City shall encourage a combination of specialty retail, office, entertainment (e.g., movie and performing art theaters), and other retail uses that serve a daily and occasional need in the Downtown. Such uses are those in neighborhood-service retail centers, as well as stores selling specialty goods, quality goods, and quality and specialty restaurants.
- P3. Downtown shopping shall be supplemented by neighborhood shopping centers, consisting of retail convenience and personal service uses. Neighborhood shopping centers should be located so that the "trade area" residents are within relatively easy walking distance. Neighborhood centers should be more than one-mile apart so as not to overlap with adjacent trade areas. Regional and community serving uses are to be located in areas designated as Business and Commercial Park or Community Serving General Commercial.
- P4. Neighborhood-serving retail centers shall be limited to general use daily service needs, such as grocery stores, informal restaurants, drug stores, salons, and dry cleaners. Neighborhood-serving retail centers are defined as planned commercial centers with a grocery store and smaller supporting uses located on a major arterial.
- P5. Before new development is allowed in designated Neighborhood Commercial areas, a planned development shall be developed for each such area showing circulation and land use in the interest of safety, convenience, and maximum benefit for tenant and shopper alike. This process shall be done in cooperation with the property owners and tenants of each area. The planned development will estab-



lish a basic framework for circulation, land use, building, signage, and landscaping that will permit orderly growth as the service area of each center expands.

- P6. Regional and community serving retail centers shall be limited only to retail uses that are regional-serving, e.g., big box retailers and other large national retailers. Regional centers are defined as large, planned commercial centers or stand-alone big-box retailers with service uses of a scale and function to serve a regional or community-wide market and a location adjacent and accessible to a highway or freeway.
- P7. Highway commercial development adjacent to I-580 shall be limited to areas in close proximity to freeway interchanges.
- P8. The City shall prohibit strip commercial development, whether retail, office, or service commercial, to avoid the following problems:
- (a) traffic congestion resulting from inadequately controlled areas;
  - (b) high public costs of widening and improving major streets in order to accommodate traffic movement;
  - (c) difficulty in containment of such areas;
  - (d) poor aesthetic character where site planning, architectural style, landscaping, and signing are inadequate; and
  - (e) the spread of blight into adjacent neighborhoods.
- P9. The Business and Commercial Park (BCP) designation shall be implemented through the Planned Development (PD) zoning district or the Highway Service Commercial (CHS) zoning district, either of which requires site plan approval. The PD zoning district would identify the appropriate range of land uses consistent with the intent of the designation to ensure compatibility within the development and with adjacent land uses. The CHS zoning district may apply to appropriate locations within each interchange quadrant for freeway dependant uses, which provide an essential highway service to the traveling public. The CHS zoning district restricts freeway signs to freeway dependant uses located within free-

way interchange quadrants. Freeway uses should provide services to the traveling public while allowing for visibility and convenient freeway access.

**Objective LU-1.5 Protect the City’s investments in public property and preserve public lands for the use of the whole community.**

Policies

- P1. The City shall protect the public investment in the Las Positas Community College site through policies and land use proposals which will assure compatible use of adjacent properties.
- P2. The City shall not dispose of publicly-owned lands or commit undeveloped publicly-owned lands to long term use unless such actions are consistent with policies and proposals of the General Plan. *The City shall not dispose of or otherwise relinquish easements granted under the North Livermore Urban Growth Boundary Initiative (NLUGBI).*
- P3. Public lands and buildings which are no longer used or suitable for the functions for which they were originally acquired shall not be considered “surplus” without careful consideration first being given to their potential for other public use, including sites for affordable housing, where appropriate. The availability of public lands shall be viewed as an asset for the long-term benefit of the community which shall not be sacrificed for short-term gain. Leasing shall be considered as an alternative to land sales where their disposition is consistent with the General Plan.
- P4. In connection with LU-1.5.P3 above, the City shall investigate purchasing or leasing surplus State or federal lands for local use prior to giving up its right-of first-refusal. In any event, the City shall study the potential of such lands for non-City local use and advise the appropriate local body of such potential.

**Goal LU-2** *The City recognizes that it has an overriding responsibility to promulgate policies and programs, which will result in the management of growth to best serve the health, safety, and general welfare of its residents. (NLUGBI)*

**Objective LU-2.1** Develop and phase new housing at a rate that can be absorbed by public infrastructure and in a manner that fits within Livermore's character.

Policies

- P1. The City shall ensure that the management of community growth will assure that the natural amenities and environmental qualities which are among its greatest assets can be successfully improved, preserved, and enhanced.
- P2. The City shall strive to achieve a balanced relationship between residential development and commercial and industrial development to provide local employment and to realize an adequate tax base.
- P3. Future growth shall not exceed the community's capability to provide services. School classroom facilities, sewage treatment capacity, treated domestic water, public parks and recreation, and public safety services shall be the principal factors considered.
- P4. The quality and design of residential facilities shall also be an important component of the City's population growth policies. It shall be the continuing responsibility of the City to monitor these factors to assure compliance with the goals and policies of the Plan.
- P5. The City shall establish a growth range which supports the goals and policies for well-managed growth. The Planning Commission shall develop general policy recommendations, and the Growth Review Committee, appointed by the City Council, shall develop growth range recommendations for well-managed growth. Recommendations shall take into consideration the following factors:

- (a) State and federal policies and standards relating to the environment, including air quality;
- (b) The need for the City to accommodate a reasonable share of regional population growth with regards to Association of Bay Area Governments (ABAG) population projections;
- (c) Energy conservation;
- (d) Historical growth patterns relative to the Bay Area and Alameda County;
- (e) The need to encourage infill development in the City;
- (f) The need to provide very-low and low-income housing consistent with ABAG's housing needs determination;
- (g) The need to support viable local employment and commerce opportunities;
- (h) The need for well-designed, high quality housing;
- (i) The need to ensure that public facilities and services can adequately support future growth; and
- (j) The desirability of providing a jobs/housing balance, as well as a jobs/housing match.

P6. It shall be the residential growth policy of the City to plan for an average residential population growth fixed range between 140 and 700 dwelling units annually (based on 0.5 to 2.5 percent of 2002 housing units). The computation of the growth range shall not include small projects of four (4) units or less, which are exempt from growth management. The City may guarantee yearly housing allocations through approved specific plans to encourage and support residential development within the specific plan planning area. In this circumstance, the Citywide yearly housing allocations shall not be less than the number of dwelling units guaranteed under approved specific plans. In addition, the City shall grant 100 housing allocations per year for six years (2004 through 2009) and 200 housing allocations per year for an additional seven years (2010 through 2016) to TDC-retiring projects, as explained in LU-2.1.P15. (Reso. 2005-015)

P7. The targeted growth determination may vary, plus or minus, up to 10 units. In order to exceed the targeted growth determination, a project must meet the following criteria:

- (a) The project receives a “Good” or better in the Housing Implementation Program;
- (b) More than one-half of the units of the project could be accommodated within the targeted growth determination; and
- (c) If needed, the tiebreaker is that the project is in a targeted category in the Housing Implementation Program.

To encourage development of very-low income units, projects that reserve a minimum of 35 percent of the units for very-low income residents shall not be required to participate in the competitive review process. Very-low income projects will be included in the calculation of the City’s annual growth determination.

- P8. To promote the permanent protection and expansion of cultivated agriculture in the South Livermore Valley, bonus parcels created within the City under the Agriculture/Viticulture land use designation, Conditional Urban Overlay District, and Transferred Development Overlay District are not required to participate in the competitive review process. An average of up to 200 units per year will be authorized within the Agriculture/Viticulture, Conditional Urban Overlay District, and Transferred Development Overlay District pursuant to procedures set forth in the Land Use Element Section F, *Allowed Development in South Livermore Valley*, and in the South Livermore Valley Specific Plan for the period beginning January 1, 1998 and ending December 31, 2005. Bonus parcels within the Overlay Districts will be included in the calculation of the City’s annual growth determination.
- P9. To promote development and redevelopment in the Downtown, 200 units per year shall be authorized within the Downtown Area, for a maximum of 2,000 units for the period beginning February 2004 and ending December 31, 2013. For this period of time, Downtown Area units are not required to participate in the competitive review process. Please refer to the Downtown Specific Plan for the implementation details of this policy.

P10. The detailed implementation process of the growth determination shall be adopted by resolution of the City Council and outlined in the program administration pamphlet, but shall include the following general steps:

- (a) Determine a Specific Three-Year Housing Implementation Program: Using the Housing Element of the General Plan as a guide, the City shall develop a Three-Year Housing Plan. In developing the Plan, the City shall consider, among other issues, infrastructure requirements and limitations as they relate to the proposed growth, including but not limited to capacities of the sewer and water and street systems of the City; service requirements including schools, safety and administrative services; environmental impacts and constraints; the very-low and low income housing needs of the City; and the current job growth rate in Livermore.

The program would delineate:

- (1) The type and/or location of residential units targeted for development;
  - (2) Project specific criteria that will be used to evaluate individual projects; and
  - (3) The process and schedule by which the Competitive and Non-Competitive Housing Implementation Program will be undertaken.
- (b) Determine the Specific Yearly Growth Determination for the Three Year Period: Using the total number of dwelling units to be built during the three-year period as determined in LU-2.1.P10(a)(1) above, the annual growth determination shall be determined. This annual growth determination must be within the range of 140 to 700 units, as set by the General Plan.
- (c) Calculation of Yearly Housing Allocation: Determine the yearly housing allocation in the range of 140 to 700 units.
- (1) If during the current three-year Housing Implementation Program, the annual applications for allocations exceed the three-year growth determination, the City Council may allocate up to 150 units per year

from the first two years of the next three-year Housing Implementation Program (Reso. 2005-015).

- (d) Determine Allocation Recipients in a competitive Review Process: Developers shall submit an application consisting of:
- (1) A concept site plan showing street and lot layout, number and types of units, building footprints, etc.
  - (2) Typical elevations of buildings, walls, carports, fences, etc.
  - (3) Plans that show landscaping, usable open spaces and other amenities.

The City will evaluate and rank the applications using the goals of the Three-Year Housing Plan (See LU P7(1)), and the other criteria and standards of the implementation process.

- (e) Award Housing Allocations: Those projects determined eligible to receive allocations will proceed with the normal subdivision, site plan, design review, and other necessary approval processes.
- (f) Exempt Projects: Projects that are exempt from either the competitive process or the growth range are subject to the normal subdivision, site plan, design review, and other necessary approval processes.

- P11. When residential growth applications fall below the established growth range of the residential management program, the City shall allocate residential units without a competitive review process. The City will identify procedures in the Housing Implementation Program to be utilized in years when the number of units required are less than those established by this policy. These procedures shall maintain the administrative integrity of the program, but will not attempt to manage the range of growth or implement other growth management objectives.
- P12. The unused portion of any year's approved development, if the development is not extended, may only be reallocated for use within the specific three-year HIP cycle. The actual growth determination must meet the goals and policies of the

General Plan. The need for growth determination policy and the basis for the determination selected is as follows:

- (a) Managed growth provides the City the ability to more reasonably anticipate the public service and facility needs created by residential development. Managed growth allows the City to more effectively program the timing and funding of needed improvements.
- (b) Livermore is part of a critical air basin. In 1999, the San Francisco Air Basin was designated a non-attainment area for ozone and PM<sub>10</sub> (particulate matter) under both State and federal air quality standards. However, additional housing added in the range of 140 to 700 units annually is not anticipated to create significant air quality problems. In addition, a range of between 140 and 700 units allows housing growth to more closely match job growth in the area which would conceivably reduce vehicle miles traveled, and therefore, not impact air quality as significantly as might be expected.
- (c) In considering what is the community's "fair share" of all types of housing in support of regional growth, it must be noted that population growth estimates prepared by ABAG indicate that, between 2000 and 2020, the San Francisco Bay Area population will increase by 18 percent, Alameda County by 16 percent and Livermore by 28 percent. The City and the Livermore Valley have historically grown at higher percentages than other Bay Area locations.
- (d) In 2002, the City has a relatively close balance between the number of local jobs and employed residents at one job per one and one-half (1:1.59) employed residents. The jobs/employed residents balance can be maintained with a residential growth range between 140 and 700 residential units.
- (e) The in-fill of by-passed and some outlying areas of the City is necessary to complete service systems and improve the overall quality of life in the areas.
- (f) The City has implemented a number of housing programs to support the development and preservation of very-low and low-income housing consistent with the goals of the Housing Element.



- (g) The City has implemented several fiscal programs to support housing programs and other residential development, such as housing impact fees, Redevelopment Agency set-aside funds, and other development impact fees.
- (h) The City has implemented several environmental programs to address the impacts of development including storm drainage and water quality requirements, parkland dedication/in-lieu fees, transportation impact fees and environmental review requirements.

In summary, taking into consideration all the factors for both higher and lower growth determinations, this stated policy satisfies all the goals and other policies of the General Plan.

- P13. All residential growth shall be consistent with the policy that a proposed development must be in the best interest of the community as a whole, considering that our goal is to achieve balance in our community, which shall be understood to mean:
  - (a) A geographical balance of the physical population on the terrain.
  - (b) That the adverse impact of the residential growth on air quality be balanced by factors such as reduced vehicle miles traveled (VMT) because of shopping facility locations and local employment of the residents.
  - (c) That the ratio of the industrial-commercial tax base versus that residential tax base will become more favorable.
  - (d) The need to provide more very-low and low income housing.
  - (e) Compliance with the goals and policies set forth in this plan.
  
- P14. For purposes of growth management, congregate care (with mandatory meal plan), assisted living, and skilled nursing facilities are defined as health care facilities and are not subject to growth management policies. When a mixed-use senior facilities project includes *up to* 30 percent of the project for independent living (residential), the project as a whole is defined as a health care facility. When a mixed-use senior facilities project includes *more than* 30 percent of the project for

independent living, the residential portion of the project is subject to growth management policies.

- P15. The City shall guarantee 100 housing allocations per year for six years (2004 through 2009) and 200 housing allocations per year for an additional seven years (2010 through 2016) to projects that were approved to exceed baseline density in compliance with the City's TDC Ordinance. In addition, these housing allocations shall be granted to applicants who acquire TDCs, or pay in-lieu fees at the rates specified in the TDC Ordinance for projects that exceed the baseline density regardless of whether baseline density is actually exceeded. Unused allocations for TDC-retiring projects may be carried forward up to 13 years, or the end of 2016. Housing allocations for TDC-retiring projects are reserved for development sites outside of the Downtown Area unless and until all housing allocations reserved for the Downtown have been used. Development in the Downtown Area is exempted from the TDC Program. (Reso. 2005-015)

**Goal LU-3 Provide areas for high-density mixed-use development near transit.**

**Objective LU-3.1 Create neighborhoods near transit that include a mix of uses and a range of housing types to meet the needs of all residents.**

Policies

- P1. Prior to or concurrent with approval of any development applications, a specific plan shall be prepared and approved for the Greenville BART TOD (see Figure 3-8). The specific plan shall provide detailed guidance for project-related land use, provision and financing of public services and facilities, open space preservation (including appropriate setbacks and buffers from adjacent open space areas), visual resources, and recreational amenities, and shall include mitigation measures to reduce the impacts of individual projects on existing neighborhoods and environmental resources. The highest density shall be located nearest to the BART station and shall feather to lower densities as it approaches the existing, surrounding single-family neighborhoods.

- P2. Development of the BART TOD shall be contingent upon BART establishing a firm timeframe and funded extension of full BART rail services from Dublin/Pleasanton to the Greenville area. Until such a commitment is made for full BART rail service, land uses in the Greenville BART TOD shall be consistent with Agriculture/Viticulture (AGVT).

**Goal LU-4 Ensure that new development mitigates significant environmental, design, and infrastructure impacts.**

**Objective LU-4.1 Prevent development from occurring where the location or the physical or biological characteristics of the site would make the land use inappropriate.**

Policies

- P1. Impacts to wetland and biological resources shall be calculated on a gross acreage basis and shall include areas of steep slopes, streets, floodways, and parks dedications that could result in losses of wildlife and plant habitat on a parcel.
- P2. The City shall encourage the clustering of development in order to minimize its overall footprint in areas of ecological sensitivity, such as hillsides, alkali springs, creek corridors, and watersheds.

**Objective LU-4.2 Ensure that new development complements its local context and minimizes impacts on the environment.**

Policies

- P1. New development shall be designed to respect and enhance Livermore's existing development and natural environment.
- P2. The use of "green construction" and land development techniques shall be encouraged as a means to reduce the environmental impacts of construction activity.

- P3. Encourage all additions and new development to follow green building practices for design, construction, and operation and to incorporate as many LEED™ prerequisites and credits as feasible.

Action

- A1. Use the Housing Implementation Program (HIP), design review process, and specific plans to ensure that development meets community concerns for visual quality and environmental sensitivity.

**Objective LU-4.3 Designate appropriate areas for industrial uses in order to prevent negative impacts on the health, safety, and welfare of residents.**

Policies

- P1. Industrial development shall be subject to design principles and performance standards consistent with General Plan policies.
- P2. The City shall reserve large tracts for exclusive industrial use to encourage development of an industrial “community” and prevent encroachment by incompatible uses.
- P3. The City shall reserve sufficient space for industry, recognizing industry's greater land requirements due to new methods of operation.
- P4. The City shall assign high priority for the extension of urban services particularly those where multiple modes of transportation are available.
- P5. The City shall evaluate proposed industrial development in terms of its impact on local employment.
- P6. The City shall encourage the formation of an Industrial Park Foundation for purposes of establishing an industrial park as an added inducement in attracting new industries.

**Objective LU-4.4 Protect the Municipal Airport from encroachment by incompatible uses.**

Policies

- P1. The City shall encourage development of property within the immediate vicinity of the Airport for light industrial and transportation uses to the extent that noise standards and flight clearance requirements are maintained, and environmental impacts are adequately mitigated.
- P2. New residential land use designations or the intensification of existing residential land use designations shall be prohibited within the Airport Protection Area (APA), which is shown on Figure 3-5. The APA includes the area located within 7,100-feet west of the western end of runway 7L-25R, 5,000-feet north of the northern edge of runway 7L-25R, 5,000-feet east of the eastern end of runway 7L-25R, and 5,000-feet south of the southern edge of runway 7R-25L.
- P3. Development at the Airport shall be subject to Federal Aviation Administration, Airport Land Use Commission, and City building/structure height restrictions.

Action

- A1. Pursue the feasibility of acquiring urban development rights or fee title to property within the Airport flight approach areas west of the runways to the City limits to assure the most positive control over development within the “off-airport” flight approach areas.

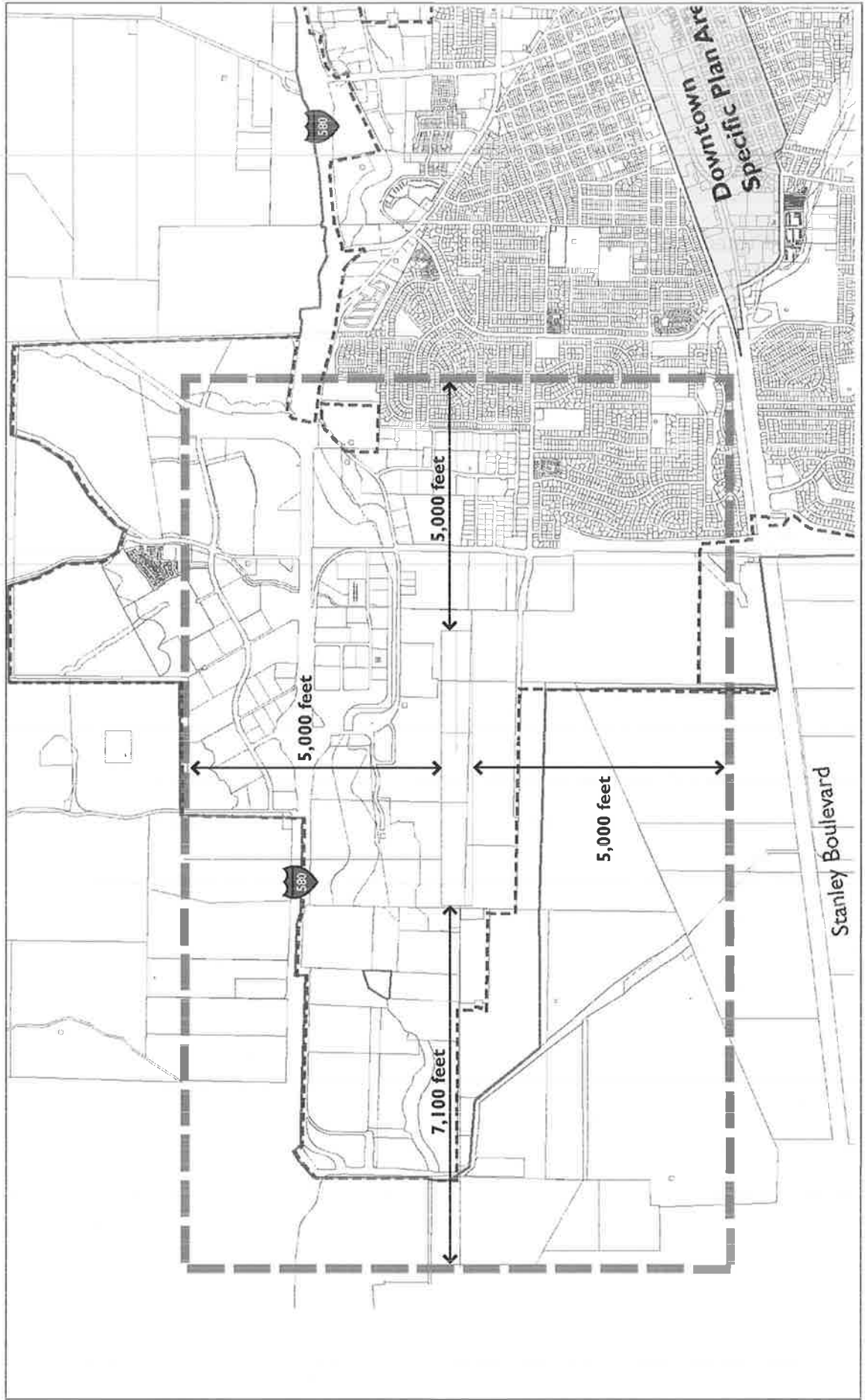


FIGURE 3 - 5

**AIRPORT PROTECTION AREA**

— — — — —  
 Airport Protection Area (APA)  
 Boundary

#### ***D. North Livermore Goals, Objectives, Policies, and Actions***

The Livermore City Council adopted the *North Livermore Urban Growth Boundary Initiative* on December 16, 2002, after this ordinance had qualified for placement on the ballot. The provisions of this initiative are identified in the following section in *italics*. All text below in *italics* cannot be amended or repealed, unless approved by a majority of the Livermore electorate prior to amendment/alteration of the policy. This section includes Goals, Objectives, Policies, and Actions to implement the provisions of this initiative. Additional sections from this initiative are incorporated through the General Plan, also shown in *italics* and cited either as *North Livermore Urban Growth Boundary Initiative* or *NLUGBI*. Section 21 of the initiative, which includes terms and definitions, is included in the Glossary in Chapter 12.

In policies where the initiative interjected a word or phrase into an existing General Plan policy, only the initiative language is shown in *italics* and is cited with (*NLUGBI*). Only areas outside the Urban Growth Boundary, as identified in this initiative, are subject to the requirements of the initiative. Appendix A includes the *North Livermore Urban Growth Boundary Initiative* in its entirety, as adopted by the Livermore City Council in December 2002. Appendix A also provides a policy citation cross reference to this section (Section D, North Livermore Goals, Objectives, Policies, and Actions) of General Plan policies for each section of the initiative required to be incorporated into the Livermore General Plan. These sections will implement the initiative.

**Goal LU-5** *It is the goal of the City to establish a coherent and logical pattern of urban uses that protects and enhances open space and agricultural uses by providing a clear and permanent boundary for urban uses within the City's Planning Area. The provisions of GOAL LU-5, as readopted by the North Livermore Urban Growth Boundary Initiative shall be amended only by a vote of the people.*

**Objective LU-5.1** **Maintain an Urban Growth Boundary to protect open space and agricultural uses in North Livermore.**

Policies

- P1. *An Urban Growth Boundary is completed for Livermore. This boundary is the existing South Livermore Urban Growth Boundary (as adopted by the South Livermore Urban Growth Boundary Initiative, approved in March 2000) beginning at Greenville Road, west to its junction at Interstate Highway 580 with the Livermore City Boundary, along the City boundary generally to the east, except where the boundary is south of I-580 the Urban Growth Boundary shall be I-580, to Assessor's Designated Parcel 902-8-5-5, north along the western boundary of that parcel and Designated Parcel 902-8-1 to the northwest corner of Parcel 902-8-1, east along the northern boundary of Parcel 902-8-1 to the Livermore City Boundary, north and generally east along that boundary to Assessor's Designated Parcel 99B-5500-1-10, east along the northern boundary of that parcel and south along the eastern boundary of that parcel to Altamont Pass Road, southwest on that road to Greenville Road, south on Greenville Road to the Livermore City Boundary, generally south along that boundary to Greenville Road, and south to the South Livermore Urban Growth Boundary. The Livermore City Boundary means the City boundary on June 30, 2002.*
- P2. *The Urban Growth Boundary is depicted approximately in Figure 1-2 (and in Appendix A). That map is for purpose of information only; it is not enacted by the NLUGBI. The Boundary delineated by this section is the enacted Urban Growth Boundary.*



**Objective LU-5.2 Carefully regulate land uses in North Livermore.**

Policies

- P1. *Subject to LU-5.2.P3, the provisions of the NLUGBI apply, unless stated otherwise, to areas outside the Urban Growth Boundary north of a straight line extended due east from East Avenue north to the Alameda-Contra Costa County boundary and to North Livermore (as defined in the glossary in Chapter 12, Section C), if these areas are annexed to Livermore.*
- P2. *Except as provided otherwise in the NLUGBI, creation of parcels, development and uses on lands outside the Urban Growth Boundary in the areas described in LU-5.2.P1, if annexed to Livermore, shall be governed by the provisions of the Alameda County East County Area Plan set forth in Appendix 2 of Appendix A that were applicable to the areas on June 30, 2002. References to "the County" or "County" shall then be changed to "the City" or "City."*
- P3. *The NLUGBI does not apply to areas within the Alameda County South Livermore Valley Area Plan or areas to which that Plan is extended under Program 117 of the East County Area Plan (in Appendix 2 of Appendix A), nor does it apply to lands governed by the South Livermore Urban Growth Boundary Initiative. (Relevant provisions of that Initiative are in Appendix 3 of Appendix A.)*
- P4. *Only the following uses, and their normal and appropriate accessory uses and structures, (as well as uses preemptively authorized by Federal and State law) may be permitted in North Livermore, provided that they comply with all the provisions of this Plan:*
- (1) One single family residence per parcel, additional dwelling units to the extent that clustering is permitted on a single parcel under Objective LU-5.3, secondary units required by State law, and farm labor housing necessary for bona fide farm workers employed full-time on the parcel or on a farm or ranch of which the parcel is a part (which in no case may be used as housing for non-farm workers);*
  - (2) agriculture, including horticulture and grazing of ruminants, but not including large or medium size commercial feed lots and pig farms;*

- (3) *packaging, processing, storage or sale of agricultural produce or of plants, a substantial portion of which were grown in the Livermore area, but not canneries and freezing facilities;*
- (4) *rearing, custodianship, training, rental or care of animals, other than ruminants which are not subject to this subsection but are agriculture covered by LU-5.2.P4(2), provided that the use does not cause appreciable environmental harm;*
- (5) *additional commercial uses, limited to the following:*
  - (i) *outdoor recreation and pastimes predominantly for active participants, not spectators; this category of permitted uses does not include, among other things, amusement or theme parks, stadia, and motorized vehicle tracks, courses or off-road facilities;*
  - (ii) *nature observation, study or enjoyment;*
  - (iii) *home occupations and offices, subordinate to residential uses and conducted primarily by residents of a parcel, that will have no deleterious effects on the environment or visual qualities or materially increase traffic in the local area;*
  - (iv) *rental of rooms to lodgers, including with board, not exceeding two units in a residence;*
  - (v) *uses in historic structures, incidental to preserving the structures and their historic qualities and setting, that will have no deleterious effects on the environment or visual qualities;*
  - (vi) *physical and mental convalescence and rehabilitation, chemical dependency treatment, and hospices;*
  - (vii) *veterinary offices or facilities, and repair shops primarily for agriculture;*
  - (viii) *cemeteries, not to exceed twenty acres, provided they are designed to minimize off-site visual impacts from monuments or other structures;*
  - (ix) *accommodations for short-term visitor occupancy and for provision of food and drink (including low-intensity campgrounds and picnic facilities, not to exceed seven acres, but not including recreational vehicle parks), that accord with a rural, agricultural environment;*

- (6) *institutional and other non-profit uses that primarily serve North Livermore residents, facilities for meetings and retreats, or to the extent that like uses by profit-making entities would be permitted under LU-5.2.P4;*
- (7) *City and other government facilities and infrastructure, and public utilities, that are limited to meeting the needs created by permitted uses in North Livermore, except if the City Council reasonably finds more extensive public need that cannot be met outside North Livermore; however, this exception shall not apply to waste disposal or treatment, commercial electrical power generation, or new airports. Publicly provided outdoor recreation and nature observation and enjoyment facilities and ancillary accommodations are permitted whenever like private uses would be allowed.*

**Objective LU-5.3 Encourage clustered development that does not detract from the rural character of North Livermore.**

Policies

- P1. *All buildings on a parcel shall be placed within a contiguous development envelope as compact as reasonably possible, not to exceed two acres, except for buildings for agricultural uses or security needs that must be located outside the envelope, or for government facilities that the Council finds require a more extensive area.*
- P2. *If appropriate under the provisions and objectives of the NLUGBI, the City Council may permit expansion of the development envelope by up to two acres, in aggregate, on parcels of forty acres or more if proven to be necessary for buildings for permitted outdoor recreation; except in North Livermore custodianship, training, care or rental of horses; short-term visitor lodging; farm labor housing; or processing, packaging, storage or sale of produce or plants, a substantial portion of which were grown in the Livermore area; and for ancillary uses including provision of food and drink and meeting facilities.*
- P3. *Clustering may be allowed for permitted development on any two or more parcels, but only if it reduces, overall, visibility of development from public places. Clustered development may be on a single parcel or on newly created separate, contiguous parcels that do not exceed two acres each.*

P4. *Subject to the exceptions provided in Policies LU-5.3.P1 and LU-5.4.P1, the following cumulative limits apply for buildings on each parcel on which clustering occurs (for this purpose, parcels created under Policy LU-5.3.P3 shall be regarded as part of the parcel from which they were created):*

- (1) if development from two parcels is clustered, a maximum development envelope of three acres and a maximum floor area of 150% of the maximum under LU-5.4.P1;*
- (2) if development from three parcels, three and one-half acres maximum development envelope and 175% of the maximum floor area under LU-5.4.P1;*
- (3) if four or more parcels, four acres maximum development envelope and 200% of the maximum floor area under LU-5.4.P1; and*
- (4) if the parcels clustered contain, cumulatively, 400 acres or more, five acres maximum development envelope and 300% of the maximum floor area under LU-5.4. P1.*

*Any increase in the development envelope under Policy LU-5.3.P2 and the maximum floor area under LU-5.4.P2 may be added to the above maxima, but in no case may the total maximum development envelope exceed four acres except if the parcels clustered contain, cumulatively, more than 400 acres it may be six acres.*

P5. *If development is transferred from a parcel under this section, then only development for agricultural use under LU-5.2.P4(2) (which does not include dwelling units), and for processing, packaging, storing or sale of produce or plants under LU-5.2.P4(3) may be permitted on that parcel. The development envelope and maximum floor area on the parcel shall be reduced by the parcel's equal share with other parcels from which development is transferred or, if there are no other parcels, by all of the increase in the development envelope and maximum floor area on the parcel where the clustering occurs because of the transfer of development.*

P6. *Buildings on separate parcels not created under Policy LU-5.3.P3, above, may not be contiguous or in proximity unless (1) the buildings, in aggregate on the separate parcels, have no larger development envelope or more floor area than would be permitted on a single parcel under Policy LU-5.3. P4 or (2) there is no other suitable location on a parcel for the buildings under the NLUGBI.*

**Objective LU-5.4 Establish maximum floor areas for North Livermore.**

Policies

- P1. *The maximum aggregate floor area for all floors (regardless of composition, including soil) in buildings on a parcel may not exceed 1% of the parcel's area or 20,000 square feet, whichever is less; however, for any parcel 10,000 square feet shall be permitted. Floor area does not include basement floors. Greenhouses are subject to a maximum aggregate floor area of 1% or 40,000 square feet, whichever is less. Government facilities are not subject to the aggregate limit to the extent that the City Council finds reasonably that they cannot practicably be located outside North Livermore and that they must exceed the floor area maximum.*
- P2. *If appropriate under the provisions and objectives of the NLUGBI, the City Council may increase the maximum floor area by up to 20,000 square feet, in aggregate, on parcels of forty acres or more if proven to be necessary for permitted outdoor recreation; except in North Livermore custodianship, training, care or rental of horses; short-term visitor lodging; processing, packaging, storage or sale of agricultural produce or plants, a substantial portion of which were grown in the Livermore area; farm worker housing or agricultural uses; and for ancillary uses including provision of food and drink and meeting facilities.*
- P3. *Residential and residential accessory buildings on a parcel may have a maximum aggregate floor area (not including basements) of 8,000 square feet. Farm worker housing is not subject to this limitation. Buildings for short-term lodgings may not exceed 6,000 square feet floor space each and shall be located at least 30 feet apart.*

**Objective LU-5.5 Coordinate land use planning for the area north of I-580 between Livermore and Dublin with Alameda County and the City of Dublin so as to increase certainty over future land uses, to reduce speculation, and to enhance preservation of open space.**

Policy

- P1. Encourage the cooperation of Alameda County, Livermore, and Dublin in coordinating land uses adjacent to the Doolan Canyon-North Livermore area.

**Goal LU-6 Ensure that development minimizes potential visual impacts.**

**Objective LU-6.1 Encourage development that does not detract from the scenic character of North Livermore.**

Policies

- P1. *New or reconfigured parcels, including those resulting from lot line adjustments, must be created or drawn to limit, as much as possible, visibility of development from public roads, parks and other public places. Parcels may not be created that have no building site other than a ridgeline or hilltop or that would cause a building to project into the view of any ridgeline or hilltop from public places, unless there is no other possible configuration.*
- P2. *Structures may not be located on ridgelines or hilltops, or where they will project into the view from public places of a ridgeline or hilltop, unless there is no less obtrusive site on the parcel or a contiguous parcel in common ownership. To the extent practicable, including by deep setbacks from parcel boundaries, structures shall be located on that part of a parcel that minimizes visual impact from public roads and parks.*
- P3. *Development shall be subordinate to and blend harmoniously with the natural and open space qualities of the area where located, so as not to impair those qualities and to be as unobtrusive as possible. In all cases, appropriate landscaping, screening, preservation of vegetation, and building materials, covering, and paint shall be required by the City to reduce as much as practicable the visibility of development. To the maximum extent possible, all exterior lighting must be designed, placed, and shielded to confine rays to the parcel where the lighting is located. Signs shall be no more numerous, larger, or noticeable than is strictly necessary to provide essential information to visitors and shall be compatible with a rural agricultural environment.*
- P4. *The height of buildings may not exceed thirty (30) feet, except if the City Council finds reasonably that a greater height is necessary for agricultural buildings.*
- P5. *The City shall conduct a careful review of uses and of the amount, location, development envelope, floor area, visibility and topographical alteration of all development to ensure consistency with and implementation of the provisions and objectives of the NLUGBI.*

**Goal LU-7 Ensure that alterations to existing topography are minimized.**

**Objective LU-7.1 To allow development that does not create impacts to the existing topography in North Livermore.**

Policy

- P1. *Consistent with the other provisions of LU-6.1.P1 through P4; alteration of topography by grading, excavating, filling or any development activity shall be minimized. Where feasible, access roads shall be located, including by consolidation, where they are least visible from public places.*

**Goal LU-8 Encourage the use of easements to limit development to allowed uses.**

**Objective LU-8.1 To develop easements as a mechanism for ensuring that development is limited to allowed uses.**

Policy

- P1. *The City shall require an easement, running with the land, which bars development that would not be permitted under the NLUGBI for each parcel on which development is permitted, or from which clustered development is transferred. The easement shall be conveyed to the City and, if available, jointly to an independent land trust (that complies with the Land Trust Standards and Practices of the Land Trust Alliance). For purposes of this section, development shall not include structures other than buildings or development permitted under LU-5.2.P4(2) for agriculture (which does not include development under LU-5.2. P4(1), (3) or (4)). The easement shall be negative only; it shall convey no possessory interest to the City or other designee, nor confer any right of public access. The owner retains exclusive occupancy and use. The City has no responsibility or liability because of the easement for acts or omissions on the parcel, except in good faith and effectually to prevent or remedy violations of the easement. Easements shall be duly recorded in the County land records.*

**Goal LU-9 Establish a Transferable Development Credits Program.**

**Objective LU-9.1 To create a mechanism for transferring development credit from North Livermore to other areas of the City.**

Policies

- P1. *The City shall have a Transferable Development Credits Program for North Livermore to aid in accomplishing the purpose of the NLUGBI. Property owners may choose to participate in the Program, even though their property has not been annexed to Livermore. It allows participating owners to share in development values in Livermore, given the special restrictions on land use in North Livermore and the added development in Livermore permitted under the Program.*
- P2. *Transferable Development Credits shall be granted by the City to property owners in North Livermore, by rule in accordance with this section, in number and manner to accomplish the objectives of the NLUGBI. The City Council shall grant credits on the following bases:*
- (1) acreage owned in North Livermore, but not less than one credit for each full five acres*
  - (2) not less than eleven credits for an owner forgoing the right to create an additional parcel under the NLUGBI*
  - (3) not less than ten credits for an owner forgoing the right to any dwelling units on a parcel, which forbearance shall also include the right to any dwelling units on one of the parcels resulting directly or indirectly from any permitted subdivision of that parcel*
  - (4) not less than twelve credits for elimination of existing dwelling units and residential accessory structures on a parcel and for the owner forgoing the right to any dwelling units on that parcel, which forbearance shall also include the right to any dwelling units on one of the parcels resulting directly or indirectly from any permitted subdivision of that parcel.*
- P3. *Duplicate credits may not be granted with respect to the same acreage or right forgone, regardless of changes in ownership. Credits given under the subparagraphs (2), (3), or (4) of LU-9.1.P2 may be relinquished to the City prior to use or initial transfer and, if no gift is intended, the right to create a parcel, to build or rebuild as permitted by the NLUGBI regained and the corresponding easement conveyed under Policy LU-9.1.P7 reconveyed. The Council may differentiate*



*in the number of credits granted, in excess of the minimums guaranteed by the paragraphs (1), (2), (3), and (4) of LU-9.1.P2 among areas of North Livermore to reflect development potential, and among grantees according to their willingness to participate in the program at an earlier rather than later date.*

- P4. *Development credits may be used, as the City Council approves in accordance with the NLUGBI and other City regulations, in areas within the City boundary and the Urban Growth Boundary to build dwelling units and commercial and industrial space, including units and space that otherwise would not be permitted or not permitted until a later time. To accomplish the purpose of the NLUGBI, the Council shall provide for the efficacious use of credits, over a reasonable time period, equal in number to the credits granted. To create an adequate initial demand, the Council shall provide for use of an appropriate number of credits promptly after the effective date of the NLUGBI. With reasonable justification, the Council may permit more development per credit in some receiving areas and for certain types of uses. Credits also may be used in unincorporated areas if approved by the County, in accordance with the East County Area Plan, or in the cities that provide for their use.*
- P5. *Credits may be sold or purchased, or otherwise transferred or received, by any person including the City and other government entities. The City may use funds available for that purpose to buy credits, including a revolving fund replenished by the sale of credits. The City may buy and sell credits to establish and maintain an efficacious market for the credits, or to extinguish them. (Extinction of credits may be part of a more general City program to purchase development rights.)*
- P6. *The City shall establish appropriate means to inform persons about the development credits program and to facilitate transfer of credits from transferors to transferees. The City shall have procedures and requirements to ensure that it has accurate records of development credit grants, transfers, and use.*
- P7. *As a precondition for the grant of development credits under LU-9.1.P2, the owner shall convey an easement, which runs with the land, to the City and, if available, jointly to an independent land trust that meets the standards of LU-8.1.P1. As provided in that policy, the easement shall be negative only. If the credits are granted under LU-9.1.P2(1), the easement shall bar any*

*future land division, development or use not permitted by the NLUGBI on the parcel where the acreage is located. If credits are granted for forgoing the right to create a parcel under LU-9.1.P2(2), the easement shall relinquish that right permanently. If the credits are granted under LU-9.1.P2(3) or LU-9.1.P2(4) for forgoing all dwelling units on a parcel, the easement shall relinquish the right to any dwelling units or any other development on the parcel, or on one of the parcels resulting directly or indirectly from any permitted subdivision of that parcel, except development under LU-5.2.P4(2) for agricultural use and under LU-5.2.P4(3) for packaging, processing, storage or sale of produce or plants. Easements shall be duly recorded in the County land records.*

- P8. *Nothing in this section bars the City from granting development credits for areas other than North Livermore or on bases other than specified in LU-9.1.P2 including for acceptance of recycled water, and permitting their use.*
- P9. All land outside of specific plan areas will be classified as TDC receiving areas as identified and shall include subsequent general plan amendments that result in new residential land use designations or an increase in residential density. TDC receiving sites incorporate a baseline density achievable without the need to comply with the City's TDC Ordinance, by acquisition of transferable development credits (TDCs), or payment of an in-lieu fee, if one is adopted. Applicants who wish to exceed this baseline density must comply with the City's TDC Ordinance by purchasing TDCs or paying an in-lieu fee, if one is adopted. Under the TDC option, the General Plan maximum density still limits the maximum density allowed on the site under the TDC option. The TDC requirements in a specific plan area, if any, shall be set forth in the specific plan for that area.

The TDC Ordinance may require different rates of TDC acquisition for different development products. It may require more TDCs per dwelling unit in excess of baseline density for detached dwelling units than for attached dwelling units.

To promote awareness of these TDC provisions, the General Plan Land Use Map shall identify TDC receiving areas by means of a two-part classification. The first part of the classification indicates the baseline density or maximum density al-

lowed when developers choose not to use the TDC option. The second part of the classification states the maximum density allowed when developers choose to exceed the baseline density and comply with the requirements of the City's TDC Ordinance.

- P10. The City Council and/or agencies authorized by the City Council to implement the TDC Program may concentrate the use of funds under their control to prioritize TDC acquisitions in selected portions of North Livermore in order to achieve the overall goals of the *North Livermore Urban Growth Boundary Initiative (NLUGBI)*.
- P11. The City's TDC Ordinance may include a provision for applicants to comply with TDC requirements by paying an in-lieu fee instead of acquiring actual TDCs. If so, the City should review the TDC fee bi-annually and make needed adjustments based on estimates or appraisals of TDC value, recent TDC transactions, inflation indices, and other relevant information.
- P12. The City shall seek to coordinate with the Tri-Valley Conservancy organization to help in implementing the TDC program. Such assistance could include authorizing the non-profit organization, under City Council direction, to hold and enforce easements, acquire and sell TDCs, market the TDC program, facilitate transactions, seek funding for TDCs, create a registry of interested buyers/sellers, maintain records of transactions, and advise the City of needed program refinements.
- P13. Either directly or through an authorized agency, the City may acquire TDCs using funding from settlement agreements, mitigation agreements, grants, general fund, loans, grants, and other sources appropriate for the acquisition of open space.
- P14. It is consistent with this General Plan that non-residential development also be required to acquire TDCs in the long-term future and thereby contribute to the preservation of North Livermore. Because a market for higher-density non-residential development did not exist in Livermore in 2003, the TDC Ordinance initially adopted by the City did *not* require developers to acquire TDCs so that non-residential structures can exceed a baseline floor-area ratio (FAR). However,

a market may evolve over time for higher intensity non-residential development. If so, the City Council may impose such a requirement on non-residential development in all or part of the City by amending the TDC Ordinance.

**Goal LU-10 Encourage the orderly subdivision of land.**

**Objective LU-10.1 Carefully regulate the subdivision of land within the City limits or subsequently annexed, which is located outside the UGB.**

Policies

- P1. *The minimum parcel size in North Livermore shall be at least 100 full acres, except as provided in LU-10.1.P2 and LU-5.3.P3 through P6 with respect to clustering.*
- P2. *Forty-acre or larger parcels may be permitted by the City for purposes of cultivated agriculture in North Livermore in the area bounded on the north by May School Road extended by a straight line due west to Collier Canyon Road, by Collier Canyon Road, Dagnino Road, and Raymond Road east to the Urban Growth Boundary, if:*
- (1) the City Council does an environmental impact analysis and holds public hearings regarding the creation in that area of the parcels and their use for cultivated agriculture;*
  - (2) the Council finds that there is an adequate, sustainable, safe supply of water for projected irrigated agriculture and other uses on proposed parcels (an adequate and sustainable water supply shall be found if there is a valid contract for the period of agreed cultivation under LU-10.1.P2(6) for necessary water with an irrigation district, water agency, or the City of Livermore);*
  - (3) cultivation and irrigation, as may be conditioned by the Council, will not cause harm to groundwater, soil, biota or other environmental qualities in violation of Federal, State, or City environmental protection standards;*
  - (4) 80% of the parcel has a slope of 20% or less;*
  - (5) parcel boundaries are drawn to maximize productive use for agriculture;*

- (6) *owners contract with the City, and provide a bond or other adequate and effective guarantee, that they will plant within two years of the creation of a parcel and maintain for eight years, or more if the Council deems appropriate, cultivated agriculture on the portion of the parcel that can be cultivated, except for a development envelope not to exceed two acres, or any larger area permitted under LU-5.3.P2, to the extent that there is no other developable land on the parcel; and*
- (7) *owners convey an easement to the City and, if one is available, jointly to an independent land trust that meets the standards of LU-8.1.P1. The easement shall have the characteristics stated in LU-8.1.P1, and shall effectively and permanently bar any development not permitted by this measure. The City may also require a trail easement for purposes of a trail system.*
- P3. *Creation of a parcel or parcels under this subsection may not leave a remainder area which is smaller than the smallest parcel permitted under this section.*
- P4. *The City Council may create forty-acre or larger parcels within Doolan Canyon as part of an agreement with other jurisdictions or property owners for the purpose and with the effect of preserving generally open space in the Canyon.*
- P5. *The City shall not grant certificates of compliance except as required by State law. The City shall impose all restrictive conditions permissible under State law on conditional certificates of compliance, and shall hold the owner or subsequent transferee to strict compliance with these conditions. A certificate of compliance creates no right to develop, nor diminishes in any respect the City's authority to control development.*
- P6. *Apart from the regular subdivision process, the City may not permit lot line adjustments unless the adjusted parcels would comply fully with the General Plan and all City zoning and building ordinances, including minimum parcel sizes, nor permit adjustments between more than four parcels, or as part of a plan or series of adjustments between more than four parcels, except as required by State law.*
- P7. *The acreage of contiguous parcels in common ownership at the time the NLUGBI becomes effective or thereafter that are smaller than the minimum parcel size, although the parcels are not*

*merged by the NLUGBI, shall be treated as though part of one parcel, up to the minimum parcel size, for purposes of permissible development.*

**Goal LU-11 Provide adequate housing within the Urban Growth Boundary.**

**Objective LU-11.1 Strive to provide all future housing within the Urban Growth Boundary.**

Policies

- P1. *Nothing in the NLUGBI, including in this section, shall be applied to preclude City compliance with obligations to provide for housing that are mandated by State law.*
- P2. *To the maximum extent practicable, the City shall meet any State legal requirements within the City's Urban Growth Boundary.*
- P3. *If State requirements make it necessary to go beyond the Urban Growth Boundary to provide for housing, the voters of the City may approve an extension of the Boundary. If necessary, the City Council also may approve housing beyond the Boundary, provided:*
- (1) There is no land within the Boundary to meet a State requirement through new development, more intensive development, or redevelopment;*
  - (2) No more land is used outside the Boundary than is necessary for the housing required by State law;*
  - (3) The area is adjacent to the Boundary, or as near thereto as possible;*
  - (4) There will be adequate public facilities and services for the housing; and*
  - (5) At least 35% of the housing provided shall be for moderate, low and very low income households as defined by State law and at least 20% shall be for low- and very low-income households.*
- P4. *If the City must breach the Urban Growth Boundary, minimum parcel size, residential density limits, maximum development envelopes and floor areas, and height restrictions shall not apply to the extent necessary to confine the breach to the minimum area needed to comply with State legal requirements.*

**Goal LU-12 Ensure that the North Livermore Urban Growth Boundary Initiative is effectively applied and in compliance with the law.**

**Objective LU-12.1 Protect the legal rights of individuals when implementing the North Livermore Urban Growth Boundary Initiative.**

Policies

- P1. *Notwithstanding their literal terms, the provisions of the NLUGBI do not apply to the extent that courts determine that if they were applied they would deprive a person or persons of constitutional or statutory rights or privileges, or otherwise would be inconsistent with the United States or State constitutions or laws. This limitation is to ensure that the provisions do not infringe any person's constitutional or legal rights or violate the law in any way, or subject the City to any legal liability.*
- P2. *To the extent that a provision does not apply because of LU-12.1.P1, the City may permit only that minimum parcel creation, amount, extent, and visibility of development, and use which meets the requirements of law that is most consistent with the provisions and purposes of the NLUGBI and complies with other provisions of the NLUGBI.*

**Objective LU-12.2 Apply the NLUGBI to parcels, development and uses subject to City authorizations and approval.**

Policies

- P1. *The NLUGBI does not affect the validity of parcels, development, and uses to the extent that they legally exist at the time the land where they are located is annexed to the City. However, the City may not permit parcels, development, and uses thereafter to be changed or expanded in ways that are inconsistent with the prohibitions, restrictions or requirements of the ordinance, except as required by State law.*
- P2. *The City shall apply the prohibitions, restrictions and requirements imposed by the NLUGBI to proposed parcels, development and uses that have not received all necessary discretionary City and other government authorizations and approvals prior to annexation to the City, except to the extent precluded by State law.*

**Objective LU-12.3 Avoid inconsistency with City Plans, Ordinances and Actions.**

Policies

- P1. *If there is any inconsistency between a provision of the NLUGBI and another provision of the General Plan, that other provision to the extent that it is inconsistent is superseded and the NLUGBI shall govern.*
- P2. *Any provision of any existing or subsequently adopted specific, area or other plan, that is not part of the General Plan, and of any zoning ordinance or any other ordinance, resolution or policy of the City is nullified to the extent that the provision or its application is inconsistent with the NLUGBI, except as State law mandates otherwise.*
- P3. *No subdivision or parcel map, development agreement, development plan, use permit, variance or other action inconsistent with the prohibitions, restrictions, conditions or requirements of the NLUGBI may be permitted, approved or taken by the City or its officials (including approval or permission by operation of law because of inaction), except as required by State law.*
- P4. *General Plan provisions are not to be deemed inconsistent with and are not superseded by the NLUGBI to the extent that they impose prohibitions, restrictions, conditions or requirements in addition to those imposed by the NLUGBI on the division, development or use of land. In that respect, the NLUGBI shall be deemed to establish only minimum standards, which the City may augment.*

**Objective LU-12.4 Implement and enforce the provisions of the North Livermore Urban Growth Boundary Initiative.**

Policies

- P1. *The City Council and other agencies and officials of the City shall implement and enforce the provisions of the NLUGBI diligently and effectually. They are hereby mandated by the voters of Livermore to use the most effective means at their disposal to prevent, abate and remedy violations.*



- P2. *Residents of Livermore may enforce the NLUGBI by suits for injunctive relief against the City or any person in violation of the NLUGBI or to prevent imminent violations.*

### ***E. South Livermore Goals, Objectives, Policies, and Actions***

South Livermore was subject to major planning efforts in the 1990s. In 1993, Alameda County, in cooperation with the cities of Livermore and Pleasanton, approved the South Livermore Valley Area Plan. The County's Area Plan covers land both inside and outside the Livermore City limits, and provides land use policies aimed at preserving existing vineyards and wineries, enhancing the image of the area as an important wine-producing region, and preserving the area's unique rural, scenic, and historic qualities.

After the County's Area Plan was adopted, the City amended its General Plan to incorporate the relevant policies from the County's Area Plan. The Livermore City Council also initiated the development of the South Livermore Valley Specific Plan (SLVSP) in order to implement the City's responsibilities under the County's Area Plan. The City Council adopted the SLVSP in November 1997. The SLVSP is an extension of this General Plan, and is used as both a policy and a regulatory document to guide the quantity, location and character of development in the South Livermore area. This General Plan contains goals, objectives, policies, actions, and designations that are both consistent with the Alameda County South Livermore Valley Area Plan and provides the regulatory foundation for the City's South Livermore Valley Specific Plan (SLVSP). The land use designations and urban development permitted for South Livermore are discussed in Land Use Element Section F (*Allowed Development in South Livermore Valley*).

Integral to the preservation of South Livermore in the manner planned for in the County's Area Plan and in the SLVSP was the approval of the *South Livermore Urban Growth Boundary Initiative* by the Livermore electorate on March 7, 2000. The provisions of this initiative are identified in the following section in *italics*. All text shown in *italics* under Goal LU-18 cannot be amended or repealed, unless approved by a majority of the Livermore electorate prior to amendment or alteration.

As of 2002, the majority of the goals, objectives, policies, and actions in this section (Section E) and in Section F (*Allowed Development in South Livermore*) had been implemented. Sections E and F are retained in the 2003 General Plan to provide the contextual framework for the development and preservation of this unique and historically notable part of the community.

**Goal LU-13 Promote the South Livermore Valley as a unique and historic wine region.**

**Objective LU-13.1 Develop additional wineries with a range of sizes, and other wine-country uses that promote the area as a premier wine-producing area.**

Policy

- P1. In order to support the development of wineries, the City shall encourage appropriate design, landscaping and signage to establish Greenville Road, between I-580 and East Avenue, Isabel Avenue between I-580 and Vallecitos Road, and roadways between I-680 and Vallecitos Road, via Downtown Pleasanton and Vineyard Avenue, as important “wine region corridors” as development occurs. Retain existing land use designations and policies.

**Goal LU-14 Take a proactive approach to protect, enhance, and increase viticulture and other cultivated agriculture.**

**Objective LU-14.1 *Expand cultivated agricultural, particularly viticultural, use in the South Livermore Valley from the 1993 total of 2,100 acres to the maximum acreage possible, under the Alameda County East County Area Plan (NLUGBI).***

Policies

- P1. Encourage the establishment and permanent protection of existing and new cultivated agriculture through use of agricultural easements, density bonuses, or other means.
- P2. *Establish a framework, consistent with other General Plan goals and objectives, for the consideration of development entitlements that will result in the planting of the maximum number of acres of new vineyards, under the Alameda County East County Area Plan, and fees necessary to achieve the overall goals and objectives of the General Plan in a timely and reasonable manner (NLUGBI).*
- P3. Encourage the development of additional sources of irrigation water for vineyards and other cultivated agriculture by investigating wastewater reclamation and development of other supply and delivery resources. Encourage Zone 7 to consider developing a pump monitoring and cost allocation system to cover the cost of new water in the event that additional supplies are needed.
- P4. Encourage the annexation of lands within the South Livermore Valley where the following criteria are met:
- (a) An urban development project is proposed that would significantly contribute to the goal of maximizing the number of acres of permanently protected vineyards or other cultivated agriculture in the South Livermore Valley and that meets the criteria in Objective LU-19.1, policies P1 through P7.
  - (b) The project sponsor has entered a pre-annexation agreement with the City establishing a cooperative annexation application process and specifying the development conditions applicable to the lands to be annexed.
  - (c) To the extent that annexation is reasonably incidental to an annexation described in subparagraph LU-14.1.P4(a) above, properties may be annexed which are under agricultural easements.
  - (d) Annexation of lands within the South Livermore Valley shall be actively discouraged where the foregoing criteria are not met.

**Goal LU-15 Preserve South Livermore's unique rural and scenic qualities.**

**Objective LU-15.1 Maintain a land trust to permanently protect productive and potentially productive cultivated agricultural lands in the South Livermore Valley.**

Policies

- P1. Standards and priorities for acquisition of land or easements by the Tri-Valley Conservancy shall be based on the following considerations:
- (a) Development of a critical mass to sustain agricultural operation in the South Livermore Valley.
  - (b) Preservation of lands best suited for agriculture and most threatened by development pressures.
  - (c) Preservation of contiguous tracts of agricultural land of a size large enough to maintain commercial agricultural operations.
  - (d) Minimization of conflicts with non-farm uses.
  - (e) Maintain the permanent South Livermore Urban Growth Boundary.
  - (f) Protection of critical habitat areas within the South Livermore Valley.
- P2. Maintain and enhance the visual quality of the South Livermore Valley by limiting inappropriate uses in viticultural areas and encouraging good design through establishment of appropriate design guidelines.

Action

- A1. Consider adopting other policies and programs establishing other sources of funds for the Tri-Valley Conservancy.

**Goal LU-16 Discourage and minimize development on lands with existing vineyards and on lands suitable for viticulture.**

**Objective LU-16.1 Limit further urbanization within the South Livermore Valley in areas under City jurisdiction to development that substantially enhances cultivated agriculture.**

Policies

- P1. Prohibit additional development unless it will directly further the South Livermore Valley's purpose of expanding and enhancing cultivated agriculture.
- P2. Strongly discourage the non-renewal or early termination of Williamson Act contracts. County and City agriculture preserve guidelines and individual contracts may be modified to specifically accomplish the objectives of preserving and promoting agriculture, in conformance with South Livermore Valley policies.
- P3. Require that urban development within the South Livermore Valley mitigate impacts on and substantially enhance cultivated agriculture, by means of paying agricultural mitigation fees to the Tri-Valley Conservancy, by the direct planting of new vineyards, by dedicating agricultural easements on lands within the South Livermore Valley, and/or by including major wine-oriented attractions that would increase recognition of the South Livermore Valley as a premium wine-producing region.

**Goal LU-17** Coordinate land use planning of the area between Alameda County and the cities of Livermore and Pleasanton so as to increase certainty over future land uses and to reduce speculation.

**Objective LU-17.1** Maintain the permanent South Livermore Growth Boundary and open space buffer between the cities of Pleasanton and Livermore in the South Livermore Valley.

Policy

- P1. Encourage the cooperation of Alameda County, Livermore and Pleasanton in reaching the goals and objectives of the South Livermore Valley through coordination of land use plans, use of pre-annexation, development, joint powers, tax-sharing, or other agreements, or other appropriate devices to coordinate future land uses and appropriate mitigation measures.

**Goal LU-18** *It is the goal of the City to establish a coherent and logical pattern of urban uses that protects and enhances open space and agricultural uses by providing a clear and permanent boundary for urban uses within the City's planning area. The provisions of GOAL LU-18, as readopted by the South Livermore Urban Growth Boundary Initiative, shall be amended only by a vote of the people.*

**Objective LU-18.1** *Maintain a permanent Urban Growth Boundary (UGB) on the City's southern edge (as indicated Figure LU 3-6 and the City's Land Use Map) beyond which urban development shall not be permitted. Non-urban uses, such as agriculture, parks, and open space may be permitted within and beyond the South Livermore UGB. (Relevant provisions of that Initiative are found in Appendix 3 of Appendix A.)*

Policies

- P1. *For the purposes of this section, "urban uses" and "urban development" include any use that is not permitted on lands with a general plan land use designation of Limited Agriculture; General Agriculture; Viticulture; Agriculture/Viticulture; Parks, Trailway and Recreation, Corridor, and Protected Areas; or Range and Grassland, as those designations existed on December 6, 1999. (South Livermore Urban Growth Boundary Initiative, 3-7-2000)*
- P2. *For the purposes of this section, "urban services" refer to sewer and water service*
- P3. *Permit only non-urban uses beyond the UGB within the City's municipal boundary. Beyond the City's municipal boundary, discourage and oppose any urban uses.*
- P4. *Extend urban services only to areas within the UGB, except that the City may provide:*
- (i) sewage treatment and disposal services to the Veterans Administration Hospital for hospital uses;*
  - (ii) urban services for residences on parcels outside of the South Livermore UGB which parcels were existing as of October 27, 1997, provided the property receiving such services shall record a binding agreement between the property owner and the City disallowing further division of the property and any provision of urban services to non-residential uses upon the property;*
  - (iii) urban services for commercial uses on parcels outside of the South Livermore UGB which parcels were existing as of October 27, 1997, subject to the following:*
    - (a) the subject property is designated under the South Livermore Valley Area Plan for agricultural uses, with associated allowable commercial uses;*
    - (b) the service(s) will be utilized for allowable commercial uses consistent with the provisions of the South Livermore Valley Area Plan only;*
    - (c) the subject property is located adjacent to the Livermore municipal boundaries as of the date of the adoption of the SLVSP and, is located adjacent to the Urban Growth Boundary;*

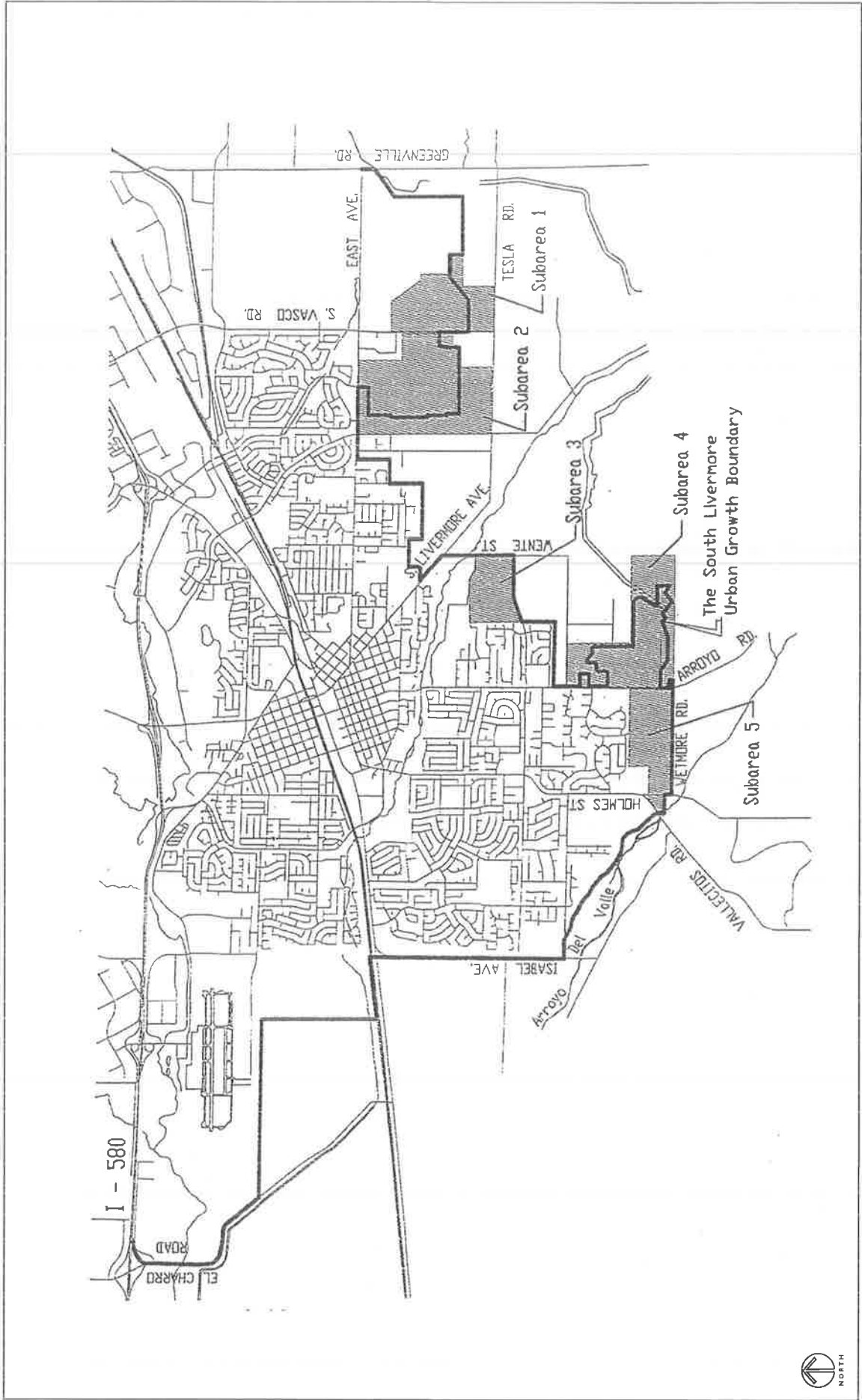


FIGURE 3 - 6

**SOUTH LIVERMORE URBAN GROWTH BOUNDARY**



- (d) *if required by City or LAFCO policy, the property will annex to the City;*
  - (e) *the service(s) can be provided to the subject property without any potential growth inducing impacts associated with potential provision of urban services to areas not otherwise allowed to receive such services under the South Livermore Valley Specific Plan or South Livermore Valley Area Plan;*
  - (f) *before receiving such service(s), the property owner will record a conservation easement over the subject property in a form acceptable to the City which restricts use of the subject property to agricultural and open space uses, except as to a delineated commercial use area within which allowable commercial uses and intensity of such uses shall be delineated; and*
- (iv) *for sewer service in unincorporated areas, the connections (residential and commercial) shall allow no more wastewater flow than the equivalent of ten residential units as required by the LAVWMA Joint Powers Agreement. This requirement shall apply cumulatively to all contiguous uses within the unincorporated geographic area. Larger scale sewer service to unincorporated areas requires the unanimous approval of the LAVWMA Board of Directors. If areas are annexed, this restriction will not apply.*
- P5. *Encourage compatible uses immediately inside the South Livermore UGB, as necessary to prevent potential land use conflicts with outlying non-urban uses.*
- P6. *The South Livermore UGB is indicated by a solid line in Figure 3-6 and the City's Land Use Map.*
- P7. *The foregoing provisions of Objective LU 18.1 and Figure 3-6, as readopted by the South Livermore Urban Growth Boundary Initiative, shall be amended only by a vote of the people or otherwise in accordance with Section 3.D. of the South Livermore Urban Growth Boundary Initiative.*

**Goal LU-19 Establish and maintain urban development criteria for the South Livermore Valley.**

**Objective LU-19.1 Require any urban development proposal within the South Livermore Valley to meet criteria intended to promote agriculture and discourage irresponsible development.**

Policies

- P1. Urban development in the South Livermore Valley shall not be approved unless all necessary public utilities and services are available.
- P2. Urban development in the South Livermore Valley shall not be approved unless the project will contribute funds for a recycled water treatment system. Contributions should equal or exceed the cost of providing recycled water equal in volume to 120 percent of anticipated water use of the development.
- P3. Urban development in the South Livermore Valley shall not be approved unless the project protects public health and safety and the integrity of the unique surrounding landscape within the South Livermore Valley by prohibiting grading or development on slopes of 25 percent or more and prohibiting mass grading on slopes of between 10 and 25 percent. Development shall be located, sited, and designed to fit and be subordinate to natural landforms.
- P4. Urban development in the South Livermore Valley shall not be approved unless the project will not require cancellation of a Williamson Act contract, unless the development proponent can show, to the satisfaction of the City of Livermore, that cancellation will result in a more compact development pattern than development of proximate non-contracted lands. It is required that an area within the South Livermore Valley equal or greater in area to the parcel(s) on which cancellation would occur be cultivated and placed under permanent agricultural easement and a long-term maintenance contract, prior to final approval of any cancellation.

- P5. Urban development in the South Livermore Valley shall not be approved unless the project site will not displace a significant amount of any actively farmed vineyards, defined as vineyards that produced and harvested wine grapes in 1991. Any actively farmed vineyards that are displaced shall be mitigated by planting and maintenance of and dedication of agricultural conservation easements over unplanted land equivalent to the displaced farmlands in addition to and in accordance with the agricultural protection policies set forth in P7, below.
- P6. Urban development in the South Livermore Valley shall not be approved unless the project site is contiguous to the existing boundaries of the City of Livermore. The City of Livermore has determined the exact location of urban development through the adoption of a specific plan and General Plan amendment.
- P7. Urban development in the South Livermore Valley shall not be approved unless, at a minimum, the project protects and promotes viticulture or other cultivated agriculture through the following means:
- (a) Development is located and clustered, to the maximum extent feasible, adjacent to existing City boundaries to minimize loss of better quality soils for wine grapes, and is sited and designed to create a logical, permanent urban edge to Livermore.
  - (b) To mitigate the loss of cultivable soils, a minimum of one acre in the South Livermore Valley is planted in new vineyards or other appropriate cultivated agriculture, and permanently protected through dedication of agricultural easements for each acre developed. Mitigation acreage thus planted and protected should be contiguous to the extent possible to ensure mitigation acreage of sufficient size to form a viable agricultural unit.
  - (c) To enhance cultivated agriculture in the South Livermore Valley, a minimum of one acre within the South Livermore Valley, in addition to acreage required in (b) above, is planted in vineyards or other appropriate cultivated agriculture, and is permanently protected through dedication of agricultural easements for each new dwelling unit permitted in the project. Mitigation

acreage thus planted and protected should be contiguous to the extent possible to ensure mitigation acreage of sufficient size to form a viable agricultural unit.

- (d) Mitigation acreage required under (b) and (c) above is not eligible for bonus densities, as permitted under the Cultivated Agricultural Overlay District described in the South Livermore Valley Area Plan (County Plan).
- (e) Require mitigation acreage for urban development in the South Livermore Valley to be dedicated and planted, and that evidence of a long-term maintenance contract (eight years or more) be given, prior to approval of a final map. This requirement can be phased, as long as phasing is consistent with final map phasing.
- (f) Require that new cultivated agriculture resulting from South Livermore Valley policies use water conserving best management programs, including the use of drip irrigation wherever feasible.
- (g) Development includes at least one major draw or attraction that would increase recognition of the South Livermore Valley as a premium wine-producing region. Examples of appropriate attractions include a wine-related institute, research center or conference center, wine museum, cultural arts center or a resort hotel. Consideration should be given to creating a “Wine Country Center” that would serve as a focal point for visitors to the region by combining one or more major attractions with ancillary retail uses, such as restaurants, art galleries or shops, bicycle rentals, delis, or other appropriate small-scale uses that would complement the major attraction. Ancillary retail uses would be limited, and should be carefully considered to complement businesses in Downtown Livermore. Retail uses and for-profit major attractions should be subject to an agricultural mitigation fee of \$2.50 per square foot. Fee amounts should be adjusted annually to reflect changes in the Consumer Price Index.

- P8. In lieu of providing the mitigation acreage required under P7, the project may mitigate the loss of the area's unique rural scenic qualities and sensitive natural resources by dedicating land that has been identified by the City in the South Livermore Valley Specific Plan as Regional Open Space due to its significant contribution to the protection of the South Livermore Valley's natural environment. Such dedications shall, at a minimum, meet the following criteria:
- (a) A minimum of one acre of Regional Open Space shall be dedicated for each acre developed and, in addition, a minimum of one acre of environmental and open space land shall be dedicated for each new unit permitted in the project.
  - (b) For environmental and open space land that the City determines is not suitable for agricultural, residential, or active recreational use, three acres shall be dedicated for each acre required by paragraph P8(a), above, although the City may allow a small percentage of environmental and open space land (ten percent) to be dedicated at a one-to-one (1:1) basis for mitigation instead of three-to-one (3:1).
  - (c) Mitigation acreage should be contiguous to the extent necessary to form a viable open space resource or environmental protection zone.
  - (d) Mitigation acreage required under this policy is not eligible for bonus densities permitted under the Cultivated Agricultural Overlay District described in the South Livermore Valley Area Plan (County Plan).

**Objective LU-19.2** Designate appropriate City areas within the South Livermore Valley as “Transitional Areas” due to physical isolation from the main part of the South Livermore planning area, adjacency and relationship to existing urbanized areas, and/or locations within the existing City.

Policies

- P1. Encourage new urban development within Transitional Areas to provide a graceful transition between existing urban areas and the Vineyard Area, and promote recognition of the area as a premier wine-producing region through structural design, appropriate landscaping and open space, and signage.
- P2. Ensure that urban development within Transitional Areas compensates for loss of cultivable or potentially cultivable soils through use of agricultural mitigation fees to fund the Tri-Valley Conservancy. Fees should be calculated based on a one-to-one ratio between the cost per acre for agricultural easements to the Conservancy and the net acreage of potentially cultivable soils less than 25 percent in slope lost to development. Agricultural easements are assumed to have an average value of \$10,000/acre (1992 value). Fee amounts should be adjusted annually to reflect changes in the Consumer Price Index. The City should ensure collection and distribution of agricultural mitigation fees in Transitional Areas through use of joint powers, pre-annexation, tax-sharing, and/or development agreements, or other appropriate means.

Action

- A1. Continue to maintain a Transferred Development Overlay District that includes land that has been determined to be suitable for development at urban densities provided the impacts of such development are mitigated through preservation of agricultural, regional parkland, environmental, and scenic resources elsewhere in the South Livermore Valley.

**Goal LU-20 Maintain the rural qualities of the unincorporated part of the Livermore Planning Area.**

**Objective LU-20.1 Preserve agricultural and natural resources in the unincorporated area to provide the natural setting for Livermore's identity.**

Policies

- P1. The City shall request Alameda County to limit land uses in the unincorporated part of the Planning Area, including that designated Rural Residential, to agricultural and open space uses.
- P2. The City shall encourage Alameda County, the State, non-profit organizations and interested individuals to preserve, acquire and enhance open space in the Planning Area.
- P3. The City shall collaborate with Alameda County and with Alameda County LAFCO to protect existing land uses from development inappropriate for rural areas.
- P4. The City shall advocate at the State level for expansion of incentives, such as Williamson Act contracts, that allow agricultural operations to remain economically viable.
- P5. The City shall encourage local property owners to place agricultural land under easement with the Tri-Valley Conservancy, or a similar entity working in other parts of Livermore, and/or to protect their farms with Williamson Act designation.
- P6. All new developments adjacent to agricultural land shall be subject to an ordinance that preserves the right to farm. Prior to property transfer, disclosure of the right to farm shall be provided to all purchasers and lessees.
- P7. No proposed projects adjacent to agricultural areas shall be approved if they are found to substantially interfere with existing agricultural production.

Action

- A1. Provide input to Alameda County on applications in the Planning Area for discretionary land use approvals, both through the environmental review process and by commenting on referrals from the County.

*F. Allowed Development in the South Livermore Valley*

As discussed in *Section E, South Livermore Valley Goals, Objectives, Policies, and Actions*, in October 1993, the City of Livermore amended its General Plan to incorporate relevant policies from the County's South Livermore Valley Area Plan. In addition to providing a policy framework for the South Livermore Valley that was consistent with that adopted by the County, the amended General Plan established City policy that development of up to 1,600 residential units was permitted in South Livermore Valley as a means of achieving expanded viticultural acreage south of the City (i.e. through implementation of an agricultural mitigation program). The amended General Plan also stated that the City of Livermore would establish the exact location of urban development in South Livermore Valley through the adoption of the South Livermore Valley Specific Plan (SLVSP).

As a means of implementing the policies incorporated into the General Plan, one overarching land use designation, the *Agriculture/Viticulture (AGVT)* designation, was established. This designation was established such that it could be implemented through a variety of means. The standard AGVT designation allows one residential unit per 100 acres. If implemented in this manner, the land shall be used to preserve and promote agricultural and viticultural uses as the primary uses of the land. The AGVT density allows one residential unit per 100 acres; however, it is subject to, and property owners may utilize, the *Rural Density Program*, described below. At this time, the Rural Density Bonus Program does not apply to any other areas in the City's Planning Area. In the future, however, the Rural Density Bonus Program could be applied to additional areas in the City's Planning Area provided that those areas are rezoned to Planned Development/Agriculture (PD-A).



*Rural Density Program Requirements* - The agriculture/viticulture density shall be subject to a density bonus of up to four additional home sites per 100 acres (one dwelling unit per 20 acres maximum average density), if the following criteria are met:

- (1) The parcel is zoned PD/Agriculture;
- (2) Adequate water supplies are available for both domestic and irrigation needs, and all proposed uses can be served by individual septic systems;
- (3) Sensitive or unique environmental and land characteristics are protected;
- (4) Prior to final subdivision map approval (or through further surety that such planting will be completed within 39 months of filing the final map, unless an extension is granted), a minimum of 90 percent of the parcel is planted in wine grapes or other cultivated agriculture, with provisions that will ensure its continued cultivated agricultural use through a long-term (minimum of 8 years) agreement for operation and maintenance and is permanently protected through dedication of agricultural easements;
- (5) Agricultural home sites, ancillary uses and parcel configurations are sited to maximize productive use of land for intensive cultivated agriculture. In order to ensure the protection and enhancement of the image and visual quality of the South Livermore Valley, tentative subdivision maps and site plan approvals for the bonus parcels created under the Agriculture/Viticulture designation shall include design guidelines which address: location of residential home sites; protection of scenic views, vistas, and ridgelines; architectural design, including but not limited to style, colors and materials which complement the area, building types and heights, building scale and massing of structures, and solar efficiency and innovation; fencing location and materials; and landscaping guidelines to encourage the use of native and/or low water use plan materials.

The AGVT designation also allows the potential for urban development through two overlay districts; the *Transferred Development Overlay (TDO) District* and the *Conditional Urban Overlay (CUO) District*.

The TDO district, briefly described in *Section E, South Livermore Goals, Objectives, Policies, and Actions*, includes land that has been determined to be suitable for development at urban densities provided the impacts of such development are mitigated through preservation of agricultural, regional parkland, environmental, and scenic resources elsewhere in the South Livermore Valley. Within the TDO District (i.e., the Alden Land Transitional Area, Figure 3-7), a density bonus allowing development of up to a total of 350 new residential units and ancillary supporting uses (i.e. schools, parks, and trails) may be granted for projects developed pursuant to a Planned Unit Development (PUD) permit that include for every two units of development authorized by the General Plan:

- ◆ Purchase of one transferable development right (TDR) authorized by the City for use within the Transferred Development Overlay (TDO) District; and,
- ◆ Dedication of land designated as Regional Open Space within Subarea 7 (discussed below) to the Livermore Area Recreation and Parks District (LARPD) in an amount equivalent to one acre of mitigation credit calculated in accordance with General Plan policy LU-19.1.P8; other lands may be dedicated if the City determines that all available lands or credits for lands in Subarea 7 have been dedicated or retired.

The Regional Open Space dedication requirement may be satisfied by payment of a fee established by the City for acquisition and dedication of Regional Open Space or agricultural land consistent with the dedication requirement. Development within the TDO District, pursuant to a density bonus, shall also pay the agricultural mitigation fees referenced in *Section G, Alden Lane Transitional Area*, below. Any Planned Unit Development permit for the TDO District shall include conditions sufficient to ensure the development will have no significant adverse effects on the environment. The TDO District has been applied to the eastern portion of the Alden Lane Transitional Area, generally referred to as the South Livermore Transferable Development Rights (TDR) site.

The other overlay district, the Conditional Urban Overlay (CUO) District, permits urban development in seven specified geographical areas (Subareas 1 through 7) utilizing four land use subdesignations. The four subdesignations are Residential Development Area, Vineyard Commercial, Agriculture Preserve, and Regional Open Space. These land use subdesignations are described below.

AGVT Subdesignations

*Residential Development Area* - These areas primarily consist of residential development and those ancillary uses that support it, such as schools, parks and trails.

*Vineyard Commercial* - Areas that permit the limited development of wine country commercial uses that directly support the South Livermore Valley wine region. Specific commercial uses are designated for each area.

*Agriculture Preserve* - Areas that are designated for intensive agriculture, particularly viticulture. Other agricultural uses identified by the SLVSP may also be permitted, such as long-established rural residences. In order to mitigate the loss of agricultural land to development, these areas will be placed under permanent agricultural easements.

*Regional Open Space* - Areas set aside for the protection of environmental, visual and open space resources. In order to mitigate the impacts of urban development, these areas will be placed under permanent open space easements and dedicated to and accepted by LARPD as regional parkland.

The *seven, geographical subareas*, identified as such on the General Plan Land Use Map, utilize two or more of these land use subdesignations. Each subarea, and the subdesignations and permitted densities contained therein, are described below.

Geographical Subareas and Corresponding Land Uses

*Subarea 1* - Up to 133 new residential units may be constructed within a 57-acre designated Residential Development Area in conformance with the SLVSP. The Residential Development Area shall also include at least 6.2 acres of open space and trails. Four rural residential compounds will remain in addition to Stivers Academy. The remaining lands within the subarea shall be used for viticulture or other cultivated agriculture and designated as Agricultural Preserve.

*Subarea 2* - Up to 574 new residential units may be constructed within a 212-acre designated Residential Development Area in conformance with the SLVSP. The Residential Development Area shall also include 18 acres of trails and open space including a 12.5-acre park. A total of 10.2 acres consisting of two separate sites are designated Vineyard

Commercial. A site located near East Avenue is 2.2 acres with development potential to include a small winery and other wine related commercial uses. A site located near Tesla Road is 8 acres with development potential to include a medium winery and other wine related uses. One rural residential compound shall remain on an approximate 6 acres adjacent to the Tesla Road for farm support operations that will continue to operate as such. The remaining lands within the subarea shall be used for viticulture or other cultivated agriculture and designated as Agricultural Preserve.

*Subarea 3* - Up to 195 residential units may be constructed within a 96-acre designated Residential Development Area in conformance with the SLVSP. The Residential Development Area shall also include 1.8 acres of trails and open space and a 14-acre school site. In addition, a 3-acre bed-and-breakfast inn/small winery site at the existing Caldera residence and a one-acre tasting room and/or small restaurant southwest of the Concannon/Wente intersection are designated Vineyard Commercial and may be developed in conformance with the SLVSP. One rural residential compound will remain. The remaining lands within the subarea shall be used for viticulture or other cultivated agriculture and designated as Agricultural Preserve.

*Subarea 4* - Up to 130 residential units may be constructed within a 76-acre designated Residential Development Area in conformance with the SLVSP. The Residential Development Area shall also include 6.7 acres of open space and trails. Twelve-acres are designated Vineyard Commercial, with development potential for a 10,000 square-foot olive mill and small winery on three-acres, two small wineries of three acres each, and a three-acre small restaurant/winery may be developed in conformance with the SLVSP. Fifty-six acres are designated Regional Open Space, and used for regional parkland. Four rural residential compounds will remain. The remaining lands within the subarea are designated as Agricultural Preserve and will be used for viticulture or other cultivated agriculture.

*Subarea 5* - Up to 177 residential units may be constructed within a 90-acre designated Residential Development Area in conformance with the SLVSP. In addition, 16-acres are designated Vineyard Commercial, including development potential for a 20,000- to 25,000-square foot wine country commercial center on up to three-acres, a 30-room inn and large restaurant on three-acres, three small new wineries on three acres each, and a one-acre bed-

and-breakfast inn developed in conformance with the SLVSP. Five rural residential compounds will remain. The remaining lands within the subarea shall be used for viticulture or other cultivated agriculture and designated as Agricultural Preserve.

*Subarea 6* - No residential development shall be permitted. Up to 12 acres are designated Vineyard Commercial with potential for a medium-sized winery to be developed in conformance with the SLVSP. The remaining lands within the subarea are designated as Agricultural Preserve and shall be used for viticulture or other cultivated agriculture.

*Subarea 7* - Up to twelve residential units may be constructed within Subarea 7. Up to five one-acre home sites, and a home site and small winery on a three-acre site may be developed within the 92-acre family compound at the eastern edge of the subarea, and up to six parcels of approximately 20-acres, each but in no event less than 18 acres (with a residence and, subject to a conditional use permit, a boutique winery on each) may be developed on the lower bench and clay pan area.

In addition, one of the 20-acre parcels may be developed with either:

- (1) A medium sized winery; or,
- (2) A winery together with a wine country inn (with 30 rooms) and a restaurant (with sit down seating for 100 people) in conformance with the SLVSP.

The 370-acres of Subarea 7 shall be designated as Regional Parkland and Open Space. Based on the Regional Open Space mitigation criteria in General Plan policy LU 19.1 P8, the combination of flat and sloped land within the Regional Open Space designation is equivalent to 305 total acres of mitigation credit. In addition, 25 acres of land designated as Agriculture Preserve in the western portion of the family compound may be made available for mitigation in the future either as a result of being planted in accordance with the SLVSP or redesignated as Regional Open Space and dedicated to the Livermore Area Recreation and Parks District.

The Regional Open Space, family compound, and 20-acre parcels shall be subject to conservation easements protecting agricultural, habitat, and open space resources on the site and allowing the uses described above. Development of the six home sites on the 92-acre family

compound shall be mitigated by planting 10-acres of the compound in vineyards or orchards and permanently preserving the wooded slope on the northern edge of the compound. If additional land in the family compound is planted in accordance with SLVSP requirements, that land may be eligible for use as mitigation credit pursuant to General Plan policy LU 19.1 P7. Development of the six 20-acre parcels shall be mitigated in accordance with the Rural Density Program requirements, above, except that in the event that a commercial site is established in accordance with the TDO district, the mitigation requirement for this parcel may be satisfied by planting and dedicating that portion of the parcel that lies outside the designated commercial site area.

In addition to the uses described above, the western portion of Subarea 7 is entitled to 175 units of transferable development rights (23 of which have been transferred to the City pursuant to an agreement between the City and the Subarea 7 landowners) which may be used for development with the TDO District discussed above in this section.

### *G. Transitional Areas*

This section includes descriptions and requirements that apply to two transitional areas, as mapped in Figures 3-7 and 3-8 and described below. These two transitional areas include Alden Lane Transitional Area and the Vineyard Estates Transitional Area.

#### **Alden Lane Transitional Area**

The Alden Lane Transitional Area is roughly bounded by Alden Lane on the north, Holmes Avenue on the east, East Vineyard Avenue on the south, and Isabel Avenue on the west. This area was designated as a “Transitional Area” due to physical isolation from the main part of the County Plan, its adjacency and relationship to existing urbanized areas, and/or location within the existing City. This area was designated as the receiver site for the 350 residential units from South Livermore Valley Subarea 7. This area is generally referred to as the South Livermore Valley Transfer of Development (TDR) site. While this area has already been developed, the following requirements, extracted from the County Plan, were utilized to regulate the development of this transitional area:

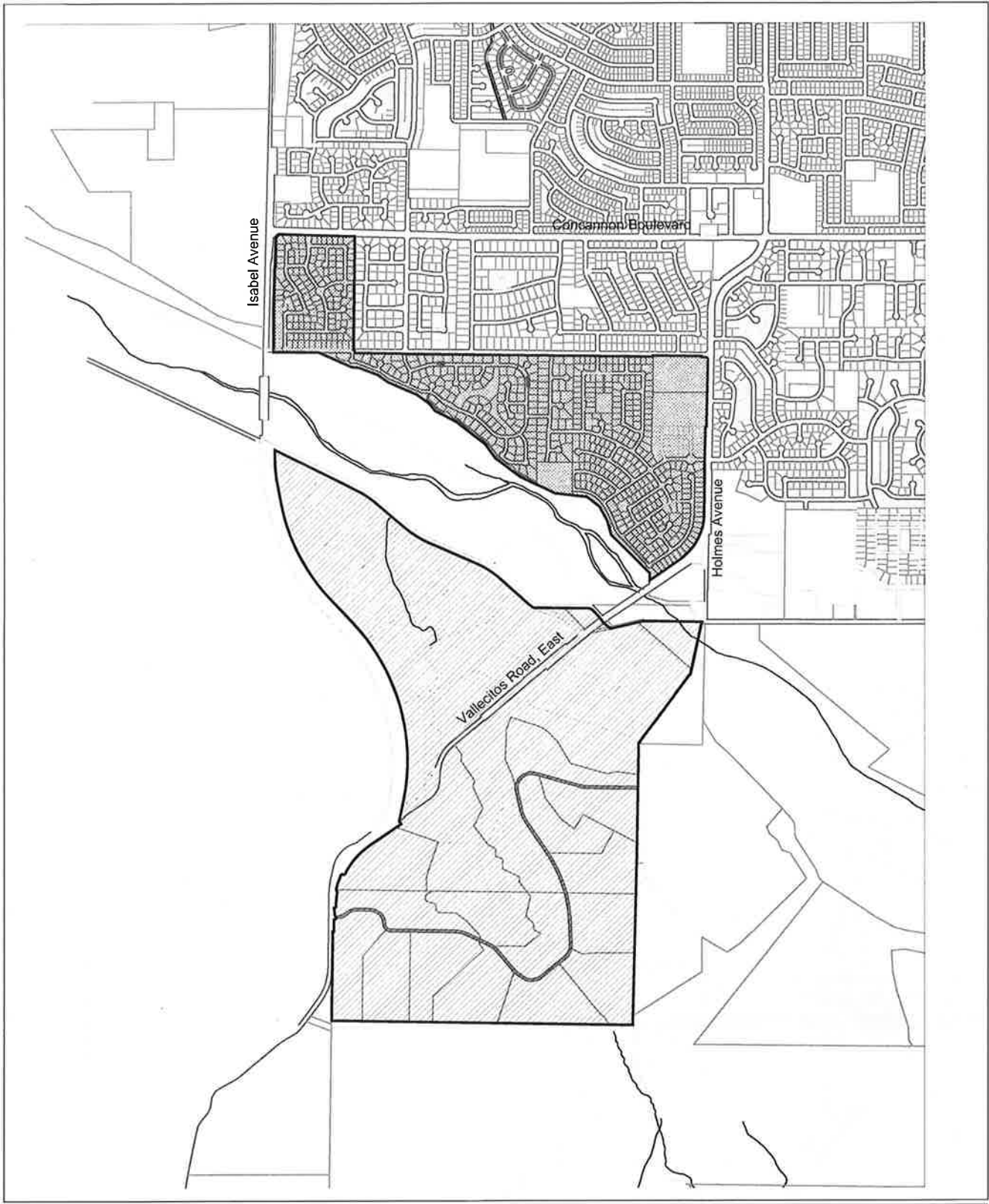
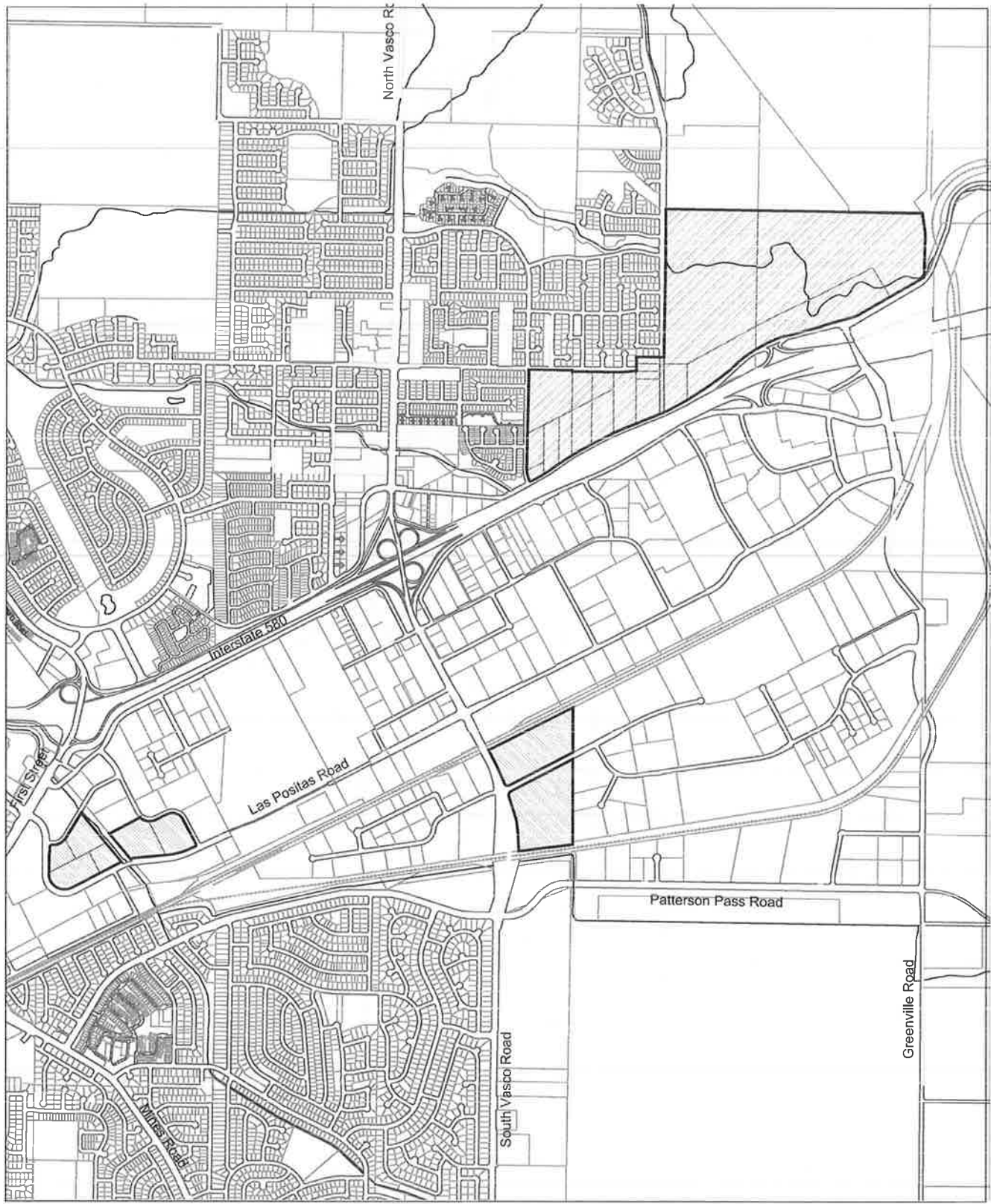


FIGURE 3 - 7

- 
 Alden Lane Transitional Area
- 
 Vineyard Estates Transitional Area

**ALDEN LANE AND VINEYARD ESTATES  
TRANSITIONAL AREAS**





-  Greenville BART TOD
-  Eastside Transitional Area

FIGURE 3 - 8

**GREENVILLE BART TOD AND EAST SIDE TRANSITIONAL AREAS**



- (a) Encourage new urban development within the Alden Lane Transitional Areas to provide a graceful transition between existing urban areas and the South Livermore Valley, and promote recognition of the area as a premier wine-producing region through structural design, appropriate landscaping and open space, and signage.
- (b) Ensure that urban development within the Alden Lane Transitional Area compensates for loss of cultivable or potentially cultivable soils through use of agricultural mitigation fees to fund the Tri-Valley Conservancy. Fees should be calculated based on a one-to-one ratio between the cost per acre for agricultural easements to the Trust and the net acreage of potentially cultivable soils less than 25 percent in slope lost to development. The value of agricultural easements shall be periodically updated to reflect market value. Fee amounts should be adjusted annually to reflect changes in the Consumer Price Index. The City should ensure collection and distribution of agricultural mitigation fees in Transitional Areas through use of joint powers, pre-annexation, tax-sharing, and/or development agreements, or other appropriate means.

#### **Vineyard Estates Transitional Area**

The Vineyard Estates Transitional Area includes approximately thirty 20-acre parcels, totaling around 700 acres, located just west of SLVSP Subarea 7. However, this area is not a part of the subareas planned for in the SLVSP. Each parcel in this area may include one house and/or winery within a specified a two-acre building envelope. The remaining 18 acres of each parcel must be put under a permanent conservation easement. This Transitional Area is a key part of the City's strategy of creating a very low density area between the vineyards and open space to the south and west and the more intense urban development to the north. The base designation in the Vineyard Estates Transitional Area is Agriculture/Viticulture (AGVT).

## *H. New Mixed-Use Neighborhoods*

This section includes requirements that apply to two mixed-use neighborhood areas outside of the Downtown, as discussed below and mapped in Figure 3-8. These areas include the East Side Transitional Areas and the Greenville BART Transit Oriented Development Area.

### **East Side Transitional Areas**

Before new mixed-use development is allowed in the East Side Transitional Area, a neighborhood plan shall be developed for each such area showing circulation and land use in the interest of safety, convenience, and maximum benefit for residents alike. The City should do this in cooperation with the property owners of each area. The neighborhood plans will establish a basic framework for circulation, land use, building, signing and landscaping that will permit orderly growth as the mixed-use neighborhood expands. In addition, neighborhood plans will include locations for schools and parks, and will address compatibility with surrounding uses.

### **Greenville BART Transit-Oriented Development (TOD) Area**

The purpose of the Greenville TOD is to provide land use appropriate to a future commuter transit station. At such time that the City receives a commitment from BART to extend rail service to Livermore, a specific plan for the area shall be developed. The plan would include sufficient acreage for a station area, maintenance yard, and parking to be determined in coordination with BART, with the remainder of the area to be designated mixed-use and residential uses. Densities in the specific plan should feather from the highest mixed-use density closest to the BART station to single-family urban residential designations at the edges. Preparation of a specific plan shall be coordinated with BART and other responsible agencies (such as LVJUSD, LARPD, EBRPD, Zone 7, and California Department of Fish and Game) to ensure that appropriate public services and facilities are provided and that potential environmental impacts are mitigated to the extent feasible.



**Compass**  
Southern California

*Charting the course for  
a sustainable southland*



SOUTHERN CALIFORNIA  
ASSOCIATION OF GOVERNMENTS

G R O W T H V I S I O N R E P O R T

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## **SCAG Growth Vision Interim Report Table of Contents:**

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# A GROWTH VISION FOR SOUTHERN CALIFORNIA

**S**outhern California is a diverse region in a variety of ways – including in its physical, cultural and economic landscapes. The region boasts an enviable setting: a moderate climate with varied terrain that ranges from sandy beaches to rolling hills, to snow-capped mountains to captivating deserts. Its diverse cultural mix offers residents and visitors alike a haven for community, entertainment and enrichment. As the 12th most productive economy in the world and one of the largest concentrations of employment, income, business, industry and finance, Southern California offers the potential for prosperity to everyone.

Because of these, and many other reasons, millions of people continue to recognize Southern California as a very desirable place to live.

As the region continues to grow, it's important to move forward in preserving and enhancing the area's land, culture and economy.

The Southern California Association of Governments (SCAG) has taken the first steps in that stewardship. SCAG has embarked on a process that will create a vision of the future for the Southern California region. In an effort to maintain the region's prosperity, continue to expand its economy, house its residents affordably, and protect its environmental setting as a whole, SCAG has brought together the ideas, hopes and dreams of interdependent sub-regions, counties, cities, communities and neighborhoods.

This process is called Southern California Compass, and the result is a shared Growth Vision for Imperial,

Los Angeles, Orange, Riverside, San Bernardino and Ventura Counties. SCAG began Compass in 2002, spearheaded by the Growth Visioning Subcommittee, which consists of civic leaders from throughout the region. Creating a shared regional vision is an effective way to begin addressing issues, such as congestion and housing availability, which may threaten the region's livability.

By definition, a successful Growth Vision must be driven by a wide array of input from the public and from various stakeholder groups. Such a process involves gathering a broad range of participants and stakeholders to gradually sculpt a consensus vision for the region. This includes administering a region-wide citizen survey, developing and refining a series of principles to guide the vision and the process, crafting growth scenarios based on the principles and on detailed public input, evaluating each scenario based on objective benchmarks, developing a preferred growth scenario, and gaining acceptance and endorsement of the preferred growth vision.

In the short term, SCAG's growth visioning process has found common ground in a preferred vision for growth and has incorporated it into immediate housing allocation and transportation planning decisions. In the long term, the Growth Vision is a framework that will help local jurisdictions address growth management cooperatively and will help coordinate regional land use and transportation planning.



*A Growth Vision is important to preserve the quality of life for future generations.*

## THE ROLE OF THIS REPORT

This Growth Vision Report presents the comprehensive Growth Vision for the six-county SCAG region as well as the achievements of the Compass process. It details the evolution of the draft vision, from the study of emerging growth trends to the effects of different growth patterns on transportation systems, land consumption and other factors.

This report begins with a general discussion of the challenges facing Southern California as it prepares to accommodate an estimated 6.3 million additional people by 2030. It studies historical trends in demographics, housing, jobs and other key aspects essential to understanding how the region will evolve and grow. Looking forward, the report explores how emerging trends and conditions will affect future growth in the region. It also discusses the challenges of continuously developing and refining the Growth Vision.

The Growth Vision report then turns to the public and to the stakeholders within each sub-region. This section emphasizes the close connection between the Growth Vision and the public input that shaped it. The results of a comprehensive regional survey and focus groups also are presented. A detailed discussion of the Compass regional visioning workshops follows, including the major themes gleaned from the public workshops held throughout the region. Descriptions and findings of the ensuing sub-regional review sessions and policy dialogues then summarize how the Compass public process continued to refine the elements of the Growth Vision.

In the next step, the report outlines the PILUT (Planning for Integrated Land Use and Transportation) test scenarios and the Growth Vision scenario. The PILUT scenarios, along with other regional development scenarios in SCAG's Regional Transportation Plan (RTP) process, present essential lessons and challenges for coordinating development and transportation in the final Growth Vision. The major themes and organizing principles of the Growth Vision are then presented. The section concludes with an analysis of the Growth Vision scenario and discusses the modeled impacts and effects the Growth Vision scenario is likely to have on Southern California.

The Growth Vision report concludes with a series of implementation steps – including tools for each guiding principle as well as overarching implementation strategies – that will guide Southern California toward its envisioned future.

It should be noted that this report concentrates on the physical aspects of regional growth – where people and jobs locate, the type and quantity of buildings that may be constructed, and how people and goods move in the region. To truly address all of the Growth Visioning principles, SCAG, sub-regions and cities should continue to refine the social, economic and other components that are also crucial to the Vision's success, including: workforce housing, job training and education, prosperity that reaches everyone, and protection of key open spaces.

A vision is not static but is constantly evolving. One goal of this report is that it will foster additional progress toward a vision of truly shared values – a vision that will evolve through well informed and wide debate about the direction the Southern California region should take as it embarks on a new era of challenges, growth and prosperity.

## DEVELOPING A VISION

The Compass project develops a vision for the future of the region using the following components:

**Public Participation** – receive input from residents and community leaders through region-wide surveys, innovative workshops, and forums.

**Scenarios** – build and evaluate scenarios to understand future possibilities and the strategies that seem to work best in them.

**Testing & Evaluation** – apply innovative modeling techniques to evaluate each scenario on objective benchmarks of success.

**The Growth Vision** – describe an attainable vision of the future that is the best achievable based on the shared values of the region.

**Strategies** – outline the strategies that are key in attaining the vision, and build an implementation strategy around those main strategies.

**Benchmarks** – establish key benchmarks, and develop a monitoring system so progress can be measured and adjustments made.

## THE NEED FOR A REGIONAL VISION

The Southern California region is the second largest metropolis in the country and one of the most diverse. While it contains one of the world's most dynamic economies, it also "boasts" some dubious titles, such as the most congested region in the country. At times it is also the national leader for air pollution. In addition, the SCAG region is challenged by both a high growth rate and substantial physical constraints. Part of the reason the region is so appealing is the proximity of beaches and mountains, yet the Los Angeles Basin is also confined by these same geographical barriers. What is not already developed is often regarded as a precious and scarce open space resource. Examples include the

agricultural lands of Ventura County, the foothills that surround the Coastal Plain, and the unique habitats areas in the High Desert.

Nevertheless, the region will grow and change during the next 30 years, facing daunting challenges due to its physical land constraints. Some of these challenges can be solved by community action – the people of this region acting together in their own enlightened self-interest. When a country or a state faces these kinds of challenges, there is a democratic government through which these solutions can be debated and implemented. But regions have no common forum or process for debating and implementing these types of issues; instead, they rely on a patchwork of local and regional governments. This approach can work when issues are fundamentally local in their impact and solution,

or when a specific regional problem is addressed by an entity with the necessary skills and authority.

Increasingly, however, most regional challenges are complex, with causes and solutions intertwined across political authorities and jurisdictions. Cooperation and coordination on a much wider scale than has been practiced in the past is required to address this complexity.

The solution is for Southern Californians to debate solutions, propose ideas and cooperate on important initiatives at both regional and sub-regional scales. Compass was begun for this reason – to develop a vision for the future that embodies the shared values of the Southland and details the actions necessary to preserve the livability of this region.



The SCAG region incorporates six diverse counties and covers 38,000 square miles.

## THE PURPOSE OF A REGIONAL VISION

The word vision conjures up some ethereal images – of saints and mystics but not practical people. However, the word also represents the ability of people to imagine a reality that is not apparent in the immediate present. It refers to explorers of distant lands and of inventors who can envision how their new machines will work. In fact, the presence of this kind of vision is essential for most creative and innovative work – if visions did not exist, nothing new or untried would ever be pursued, except by fortuitous accident.

A regional vision is a special kind of practical vision – it is a shared vision. This is when a future is defined and agreed upon by a group of people. This kind of vision led the original colonists to fight for the independent democracy that became the United States. Their vision was described by authors such as Thomas Paine in the Common Sense pamphlets and Thomas Jefferson in The Declaration of Independence. These documents pointed the way and set out key guiding principles. The future did not turn out precisely as envisioned, but the principles were used to adjust to new realities as they came to pass. The documents had the ability to inspire large numbers of people to work toward the same cause, to adhere to the same principles, and to express the purpose of their struggle.

The regional Growth Vision is an attempt to develop the same kind of vision – one that expresses the common interests of multiple stakeholders as well as the desired end point: a sustainable Southern California with a high quality of life for everyone.



*Scenario planning shows us that the future is not fixed – there are many possible outcomes.*

## SCENARIO PLANNING: A NEW APPROACH

The way governments have converted visions into reality in the past has been through a fairly simple planning process. In part because city planning has its roots in architecture, landscape architecture, and engineering, the concept of laying out a plan for a city or town was an easy leap – if one can build a building or bridge, why not a town? This model often works well at the small scale, where there is a fair degree of control over key variables. However, regions, especially regions as large as Southern California, have millions of actors and countless variables that interact to produce the resulting metropolis. A better approach in this type of situation is to use a model called scenario planning.

Scenario planning is widely used in business and military settings. Given the complexity of issues faced in today's environment, the number of variables that have to be considered, and the 20 or 30-year time frame,

it's apparent that getting the right prediction isn't really possible or even necessary. The better approach is to develop a method for outlining possible future scenarios.

Scenarios are really stories about what might be. They are not forecasts, and they are not predictions. They are possible futures that are based on what already exists, on trends that are evident, and on the values and preferences of a region and on decisions that might shape future outcomes. Scenarios are fed by input received from the combination of public workshops, surveys and stakeholder meetings. The essential requirement of any scenario is that it be plausible – within the realm of what exists and what is now known. Usually three or four scenarios are built as a way to compare outcomes and learn about the forces that are shaping the future. The point of this is to find out which strategies work in which scenarios. If a strategy works in any scenario, it's deemed robust – or a safe bet. If a strategy works in only one scenario, it is fragile and should be approached cautiously, with a good knowledge of the possible downsides.



The scenarios for the SCAG region were developed from several sources, but they are all feasible. The purpose of this growth visioning process is to find out how to achieve our shared regional vision with strategies that are as robust as possible.

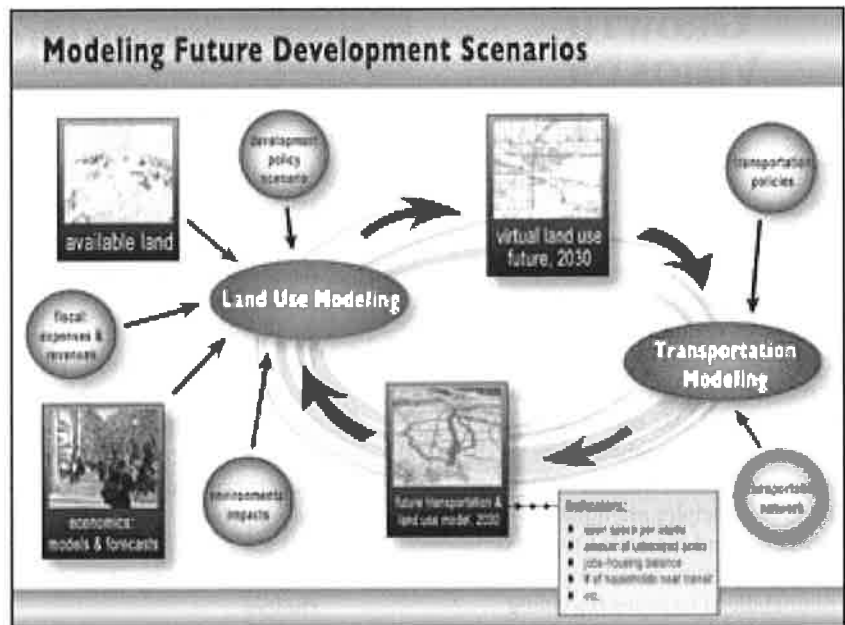
## MODELS

Models were used extensively in developing these scenarios. Models are representations of reality that are used to learn, teach and explore new possibilities. Architects build scale models of their projects to see how it might look before the real thing is built. A scale model of an airline cockpit, outfitted with a computer model of different flight scenarios, can be used to teach pilots how to fly.

For Compass, three sophisticated computer models were used in preparing and evaluating the scenarios.

The first is the SCAG forecasting model. This develops future demographic and economic projections based on national and international inputs and factors such as birth rates. It gives an internally consistent total for each scenario.

The second is a land use model, developed at a very fine level of detail for the 38,000- square-mile area of the SCAG region. This model not only maps existing conditions but also allocates future growth using various assumptions. The land use model keeps a running inventory of how land resources are used and where people live and work.



*Modeling is more than processing numbers in an equation. It is an iterative process with many feedback loops and complex cause-and-effect relationships.*

The third model is SCAG's transportation model, which is used to design future transportation systems and evaluate the consequences of these systems in terms of traffic congestion, pollution, time spent in traffic, trade-offs between cars and public transportation, and much more. The transportation model used by SCAG is one of the most progressive in the country – sensitive to the impacts land use changes have on transportation and capable of considering separately the effect freight movement has on congestion.

These models were used to evaluate the scenarios created for the SCAG region, allowing the use of objective measurements to understand the scenarios and determine which would be best for the region.

## GROWTH VISIONING PRINCIPLES

The underlying goal of the growth visioning effort is to make the SCAG region a better place to live, work, and play for all residents regardless of race, ethnicity or income. To organize the strategies for improving the quality of life in the SCAG region, a series of principles was established by the Growth Vision Subcommittee. The four principles are intended to promote and maximize regional mobility, livability, prosperity and sustainability. Decisions regarding growth, transportation, land use and economic development should support and be guided by these principles. Specific policy and planning strategies also are provided as a way to achieve each of the principles.

### PRINCIPLE #1

#### *Improve mobility for all residents*

- ◆ Encourage transportation investments and land use decisions that are mutually supportive
- ◆ Locate new housing near existing jobs and new jobs near existing housing
- ◆ Encourage transit-oriented development
- ◆ Promote a variety of travel choices



Providing transit options is a way to improve mobility for residents within the region.

### PRINCIPLE #2

#### *Foster livability in all communities*



Walkable communities help improve livability and promote a mix of uses.

- ◆ Promote infill development and redevelopment to revitalize existing communities
- ◆ Promote developments that provide a mix of uses
- ◆ Promote “people-scaled,” pedestrian-friendly communities
- ◆ Support the preservation of stable, single-family neighborhoods

## PRINCIPLE #3

*Enable prosperity for all people*



A variety of housing types enables prosperity for all people.

- ◆ Provide a variety of housing types in each community to meet the housing needs of all income levels
- ◆ Support educational opportunities that promote balanced growth
- ◆ Ensure environmental justice regardless of race, ethnicity or income class
- ◆ Support local and state fiscal policies that encourage balanced growth
- ◆ Encourage civic engagement

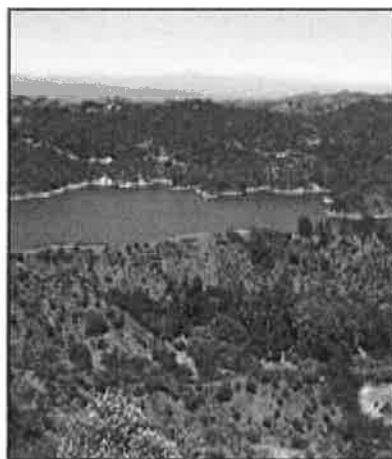
## GROWTH VISIONING SUBCOMMITTEE

SCAG's Growth Visioning Subcommittee consists of elected officials from around the region. It serves as the regional leadership body and is charged with leading the visioning process. The interaction between the regional leadership and SCAG's sub-regions form the foundation of the visioning process. Local jurisdictions and other local stakeholders provide input into the process at the sub-regional level. Regional stakeholders and the Compass Advisory Committee – which consists of participants from varied disciplines who generously donate their time and viewpoints – provide input into the process through the Growth Visioning Subcommittee. All results from surveys and focus groups are presented to the Subcommittee for review and feedback.

## PRINCIPLE #4

*Promote sustainability for future generations*

- ◆ Preserve rural, agricultural, recreational and environmentally sensitive areas
- ◆ Focus development in urban centers and existing cities
- ◆ Develop strategies to accommodate growth that use resources efficiently, eliminate pollution, and significantly reduce waste
- ◆ Utilize “green” development techniques



Open space is integral to the health of communities.