

	Name of Commentor	Date Submitted	Contact Information	Email
1	Raul Mendez Stanislaus Country Chief Executive Office - NOP	5-Jul-21	1010 10th Street, Modesto, CA 95354 - P.O. Box 3404 Modesto, CA 95353	
2	Patrick Cavanah, Stanislaus County Chief Executive Office	6-Mar-24	1010 tenth St., ste 6800, Modesto, CA 95354	cavanahp@stancounty.com
3	Lori Schmitz, State Water Resources Control Board	14-Mar-24	1001 I Street, Sacramento, CA 95814	Lori.Schmitz@waterboards.ca.gov
4	Kristen Dempewolf, Stanislaus Union School District	14-Mar-24	2410 Jana Ave., Building B, Modesto, CA 95350	kempewolf@stanunion.k12.caa.us
5	Lien Campbell, Modesto Irrigation District	18-Mar-24	1231 Eleventh St., P.O. Box 4060 Modesto, CA 95352	Lien.Campbell@mid.org
6	Peter Minkel, CVRWQCB	18-Mar-24	11020 Sun Center Drive #200, Rancho Cordova, CA 95670	
7	Andrea Buckley, Central Valley Flood Protection Board	19-Mar-24	3310 El Camino Ave., Ste. 170, Sacramento, CA 95821	jennifer.calles@cvflood.ca.gov
8	Jessica Hill, City of Modesto Community & Econ. Dev. Dept.	1-May-24	P.O. 642, Modesto, CA 95354	rosborn@modestogov.com
9	Tina M. Rocha, Stanislaus County Chief Executive Office	6-May-24	1010 10th Street, ste 6800, Modesto, CA 95354	cavanahp@stancounty.com
10	Sara Lytle-Pinhey, Stanislaus LAFCO NOPcomments 6/29/2021	15-May-24	1010 Tenth St., 3rd floor, Modesto, CA 95354	www.stanislauslafco.org
11	Sara Lytle-Pinhey, Stanislaus LAFCO DEIR Comments	16-May-24	1010 Tenth St., 3rd floor, Modesto, CA 95354	www.stanislauslafco.org
12	Raul Mendez Stanislaus Country Chief Executive Office - NOP comments 7/5/2021	16-May-24	1010 10th Street, ste 6800, Modesto, CA 95354	
13	Scot A Moody, Oakdale Irrigation District	16-May-24	1205 east F St., Oakdale, CA 95361	
14	Julie Vance, Dept of Fish and Wildlife	25-Apr-24	1234 East Shaw Avenue, Fresno, CA 93710	
15	Tom Jordan, San Joaquin Valley Air Pollution Control District	24-May-24	4800 Enterprise Way, Modesto, CA 95356-8718	jacob.torrez@valleyair.org



CHIEF EXECUTIVE OFFICE

Jody L. Hayes
Chief Executive Officer

Patrice M. Dietrich
Assistant Executive Officer

Raul L. Mendez
Assistant Executive Officer

July 5, 2021

Sent Via Email to: dkenney@riverbank.org

Donna Kenney, AICP, MCRP
Planning and Community Development Manager
City of Riverbank
Development Services Department
6707 3rd Street
Riverbank, CA 95367

**SUBJECT: ENVIRONMENTAL REFERRAL – CITY OF RIVERBANK – RIVER WALK
SPECIFIC PLAN – NOTICE OF PREPARATION OF AN ENVIRONMENTAL
IMPACT REPORT**

Ms. Kenney:

This letter is to provide Stanislaus County's formal response to the above-referenced project. Stanislaus County has reviewed the subject project and provides the following comments:

In accordance with Government Code Section 56425, the County looks forward to meeting with the City of Riverbank to discuss the City's proposed Sphere of Influence (SOI) expansion and annexation of unincorporated lands. Consequently, the below comments represent the County's response to the City's Notice of Preparation of an Environmental Impact Report (EIR) for the River Walk Specific Plan. Please include the County in any future publications or referrals for the EIR and Specific Plan.

Reserve Designation

The project proposes to designate 583 acres of land currently identified as Agricultural Resource Conservation Area on the City of Riverbank's General Plan to a Reserve designation. The referral states that the Reserve designation "is intended for land that the City has not yet planned for a specific urban or resource land use." Additionally, the project referral states that "consideration for urban development, the area would need to have a land plan developed and processed through the standard application process, including a detailed environmental analysis."

**ENVIRONMENTAL REFERRAL – CITY OF RIVERBANK – RIVER WALK SPECIFIC PLAN –
NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT July 5, 2021
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The parcels identified as Reserve, consistent entirely of unincorporated land zoned for agricultural uses, the majority of which are also classified as prime agricultural farmland. Without a use or uses identified, compliance with CEQA cannot be achieved. An impact cannot be studied or mitigated without first knowing what the proposed land use could be and what potential impacts may occur as a result of those land uses. Furthermore, delaying an environmental analysis until a future period would circumvent CEQA's intent and encourage piecemeal analysis. Additionally, an environmental document should study the project's effects on the environment connection with past projects, current projects, and potential future projects to gain a complete understanding of the cumulative effects. A cumulative impact analysis cannot be achieved if the largest area of acreage is excluded from the project's environmental analysis.

Therefore, the following comments apply to both the Specific Plan as well as the Reserve designation identified outside of the Specific Plan area.

Agricultural Resources

The project area will include areas in the unincorporated County, identified as Agriculture in the County's General Plan and zoned A-2 (General Agriculture) These parcels will consist of land primarily considered to be prime farmland by the State of California's Department of Conservation Farmland Mapping and Monitoring program. The Land Use and Agricultural Elements of the County's General Plan provides for goals, policies, and implementation measures to preserve prime agricultural farmland. As the project proposes to convert agriculturally zoned land to residential, commercial and recreational uses and designate additional prime agricultural land as Reserve, the environmental document should address the following;

- Alternatives to permanent conversion of prime farmland to nonagricultural uses;
- Mitigation for unavoidable conversion of prime farmland;
- Identify implementation measures to minimize potential land use conflicts between the proposed project and adjacent unincorporated parcels that will remain zoned A-2 (General Agriculture); and
- Discussion of potential conflicts with any existing Williamson Act Contract within the project area.

Further, the project may also result in the following and as such consideration to these impacts should be assessed accordingly during the environmental analysis.

- Irreversible land use changes resulting in residential/industrial development not incidental to the commercial agricultural use of the land.
- Potential reductions in the availability or reliability of water supplies.
- Possible increased emissions of atmospheric pollutants including carbon monoxide.
- Reduced profitability of farming on surrounding farmlands resulting from increased incidences of agricultural crime including theft and vandalism.
- Reduced profitability of farming as a result of increased agricultural land prices/costs brought on by additional growth induced by the project.
- Potential of increased exposure of human population to pesticides, fertilizers, dust, noise and odors resulting from normal farming operations.

**ENVIRONMENTAL REFERRAL – CITY OF RIVERBANK – RIVER WALK SPECIFIC PLAN –
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Land Use

In 2016, the City expanded its Sphere of Influence, adding approximately 1,479 acres. At that time, the County expressed support of the expansion as it could be found to promote logical and orderly development. Since the Sphere of Influence expansion in 2016, the City has annexed less than a third of the expansion area. This new proposed growth outside the City's Sphere of Influence appears premature and does not maintain a logical land use pattern. Furthermore, the project would create a new County island (Park Ridge/River Heights neighborhood).

Additionally, the Modesto Rifle Club (APN: 074-002-007), a legal-nonconforming use, exists within the proposed Reserve designation and will be adjacent to future residential development. The environmental document should include a discussion of land use compatibility, as well as identification of any potential impacts between the two uses.

The project referral states that a large portion of the Specific Plan is intended to be an age-restricted active adult community; however, no information is provided as to the mechanism to be used to ensure the age-restriction will be in perpetuity. Unless there is a mechanism that will ensure the age-restriction in perpetuity, the environmental document should include an analysis of alternatives that do not include age-restrictions, including alternatives that may include, but are not limited to, a broader range of public service needs.

Hydrology, Water Quality, and Utilities

Portions of the Specific Plan lie within a FEMA designated "Known Flood Zone". The environmental document should study potential impacts to any existing drainage or erosion patterns and if future development would impede or redirect any flood flows.

The proposed project excludes an existing residential development (Park Ridge Estates/River Heights neighborhood) that is located within unincorporated area of Stanislaus County but within the City of Riverbank LAFCO-adopted Sphere of Influence. The existing neighborhood has an independent water system from the City of Riverbank and is served by individual septic systems. The environmental document should study impacts to the hydrological, groundwater, or soil conditions of these unincorporated communities as a result of the proposed expansion of the City of Riverbank's public water and sewer system. Groundwater impacts to the surrounding agricultural lands, including the loss of recharge areas, should also be studied.

Public Services and Recreation

The environmental document should include an analysis of potential impacts to existing capacity of law enforcement, fire, school and recreational services as a result of the proposed development within the Specific Plan area and the area designated as Reserve. To ensure additional unincorporated lands are not utilized, the analysis should also include potential locations within the Specific Plan area for additional public service and recreational facilities needed to serve the new development. Lastly, per the requirements of Government Code Section 66477.2(b), the environmental document should include a discussion on how access to the Stanislaus River will be provided as development of the Specific Plan occurs and the impacts of new residents to the County's regional parks.

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Biological Resources

The project area is adjacent to the Stanislaus River as well as other potential qualifying bodies of water, the environmental document should include an assessment of impacts to any riparian or special status species habitat within the project area.

Transportation and Circulation

- Page 14 of the NOP Description describes Patterson Road as beginning at McHenry Avenue but is unclear whether Ladd Road, which continues as a name-change west to Stoddard Rd, will be part of the transportation analysis. Impacts of the project will also need to be evaluated west of the project.
- Page 15 states that Stanislaus County is widening “northern McHenry,” but this only includes the segment from Ladd Road to the County Line. McHenry Avenue from Kiernan Avenue to Ladd Road/Patterson Road will remain 2 lanes and should be evaluated as part of the EIR. The McHenry Avenue widening between Claribel Road/Kiernan Avenue and Ladd Road/Patterson Road is not in the Stanislaus County Public Facilities Fees program, nor is it programmed for CalTrans.
- To maintain safe transportation and circulation within the County network, the following additional facilities should be evaluated for project impacts related to traffic safety and operations per the Stanislaus County General Plan:
 1. Coffee Road: Patterson Road to Claribel Road;
 2. Coffee Road: Claribel Road south to Mable Avenue;
 3. Coffee Road at Claribel Road Intersection;
 4. Ladd Road/Patterson Road at McHenry Intersection;
 5. Ladd Road at Carver Road;
 6. Ladd Road at Tully Road;
 7. McHenry Avenue: Ladd Road/Patterson Road to Kiernan Avenue
 8. McHenry Avenue at Charity Way Intersection
 9. McHenry Avenue at St Francis Avenue
 10. McHenry Avenue at River Road (San Joaquin County)

There is a significant lack of information regarding the land use and circulation plan in the areas on the west designated as Reserve. If the areas are to be included in this project with no defined land uses, they should be evaluated as a worst-case demand impact on the transportation network.

Stanislaus County appreciates the opportunity to comment on this project and looks forward to further discussion regarding the City of Riverbank’s River Walk Specific Plan proposal to ensure that a proper environmental analysis is conducted.

Thank you for your time and consideration.

**ENVIRONMENTAL REFERRAL – CITY OF RIVERBANK – RIVER WALK SPECIFIC PLAN –
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Regards,



Raul L. Mendez
Assistant Executive Officer

RLM:SM

cc: Jody Hayes, Chief Executive Officer
Thomas Boze, County Counsel
Angela Freitas, Director, Planning and Community Development
David Leamon, Director, Public Works Department
Stanislaus County Environmental Review Committee
Sean Scully, Riverbank City Manager

Miguel Galvez

From: Patrick Cavanah <cavanahp@stancounty.com>
Sent: Wednesday, March 6, 2024 11:30 AM
To: River Walk
Cc: David Leamon; Angela Freitas; Tina Rocha
Subject: River Walk Specific Plan DEIR
Attachments: 03.06.24 Letter - River Walk Specific Plan DEIR.pdf

Good Morning,

Please see the attached letter from Stanislaus County requesting additional information.

Thank you,

Patrick Cavanah
Senior Management Consultant
Stanislaus County Chief Executive Office
Mobile: 209-652-1975 | Email: cavanahp@stancounty.com
1010 10th Street, Ste 6800 | Modesto, CA 95354



State Water Resources Control Board

March 14, 2024

City of Riverbank
Attn: Miguel Galvez
6707 3RD Street, Suite A
Riverbank, CA 95367

CITY OF RIVERBANK (CITY), ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE RIVERWALK SPECIFIC PLAN PROJECT (PROJECT); STATE CLEARINGHOUSE #2021060098

Dear Mr. Miguel Galvez:

Thank you for the opportunity to review the EIR for the proposed Project. The State Water Resources Control Board, Division of Drinking Water (State Water Board, DDW) is responsible for issuing water supply permits pursuant to the Safe Drinking Water Act. This Project is within the jurisdiction of the State Water Board, DDW's Stockton District. DDW Stockton District issues domestic water supply permit amendments to the public water systems serviced with a new or modified source of domestic water supply or new domestic water system components pursuant to Waterworks Standards (Title 22 CCR chapter 16 et. seq.). A public water system requires a new water supply permit amendment when changes are made to a domestic water supply source, storage, or treatment and for the operation of new water system components- as specified in the Waterworks Standards. The City will need to apply for a water supply permit amendment for this Project.

The State Water Board, DDW, as a responsible agency under the California Environmental Quality Act (CEQA), has the following comments on the City's EIR:

- Please provide the following information in the document regarding the State Water Resources Control Board's Division of Drinking Water authorities as a responsible agency:
 - In Section 1.3 (PDF page 73; EIR p. 1.0-5) and in Section 2 (PDF page 113; EIR p. 2.0-33), Responsible and Trustee Agencies, under "Other governmental agencies that may require approvals in connection with the Project include, but are not limited to, the following:" include "State Water Resources Control Board, Division of Drinking Water- Approval of a domestic water supply permit amendment for the service area expansion, two new wells, and a tank that will be added to the city's system".
 - Under 3.14 Utilities, Safe Drinking Water Act, please update the language to reflect that implementation of the Safe Drinking Water Act is under the authority of the State Water Resources Control Board, Division of Drinking Water. This

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

authority was transferred from the California Department of Public Health to the State Water Resources Control Board in July of 2014.

- Under Section 3.11, Noise, the noise mitigation measure 3.11-1 did not consider the length of time typical to drill a well, which is usually a 24-hour a day, multiple day process. Please be sure to consider the construction and operation of water system infrastructure when analyzing the checklist sections and setting mitigation measures.
- Under Impacts 3.9-2 (PDF page 475-478) when discussing impacts from loss of groundwater recharge, please discuss how much water is currently used on the Project site (the No Project Alternative) in acre-feet per year (afy). What is the current amount of recharge? Please discuss how much recharge would be lost through the conversion of the land to residential use.
 - Will more or less groundwater be used by the proposed Project than the “No project alternative”? Be sure to consider:
 - Annual Pumping in afy that would occur for residential and agricultural uses for the proposed Project and No Project alternative.
 - Annual Recharge in afy that would occur for both residential and agricultural uses for the proposed Project and No Project alternative.
 - And new groundwater demand needed for agricultural land being protected as part of the proposed Project [if the land does not already currently have an existing groundwater water allocation].
 - Also consider groundwater recharge and ground water savings or loss from implementing the Project in the Hydrology and Water Quality sections Impact 3.9-5 [Conflicts with a sustainable groundwater management plan] and Utilities Impact 3.14-4 [Sufficient water supplies]. Discuss how the difference in recharge and water demands fits into the Project’s water budget and if these changes will affect whether the Project will conflict with the sustainable groundwater management plan as currently formulated. Also discuss in general these numbers from the loss or gain in recharge and increase or decrease in water needed to serve the Project site in Section 5 Alternatives to the Proposed Project, Hydrology and Water Quality when comparing the “No project alternative” verses the proposed Project.
- The EIR mentions the City encourages the use of recycled water for appropriate use, including but not limited to outdoor irrigation, toilet flushing, fire hydrants, and commercial and industrial processes (PDF page 654) and a future possible source for recycled water for the Project was identified as part of the wastewater treatment plant upgrades. Broad plans/figures are provided for proposed domestic water and sewer, but none are provided for recycled water infrastructure (PDF page 141 and page 143). Please include a figure/map and consider possible broad impacts for the recycled water lines and other on-site project infrastructure that may be needed to serve recycled water to the Project.
 - As the recycled water may be developed at a future time that is yet to be determined, please discuss the possible timelines for the development of onsite infrastructure and potential infrastructure locations.
 - If on-site recycled water will not be addressed in this document, please discuss plans for possible tiering of future documents for needed on-site infrastructure.
- Please discuss if the wells and two-million-gallon tank will provide irrigation water and fire-flow water, as well as domestic water, until recycled water is made available. If so, is the two-million-gallon tank adequately sized for these demands?
- Please discuss if any treatment will be required for the new wells. If treatment is required for the wells, please include the treatment infrastructure in the Project description and a

discussion of impacts associated with construction and operation of the system, as warranted. Please also address whether there would be sufficient land for the well treatment within the Project area, if treatment is needed.

- The Project falls within the San Joaquin Valley, Modesto groundwater basin according to the Department of Water Resources, Sustainable Groundwater Management Act prioritization dashboard (DWR, SGMA Prioritization Dashboard). The San Joaquin Valley- Modesto basin is identified as a high priority basin by the Department of Water Resources (DWR, *ibid*). Although the sustainable ground water management agencies have been working with DWR to get a sustainable groundwater management plan approved for the basin, DWR has yet to determine the plan as adequate for approval (DWR, SGMA Portal). Please address the following:
 - The EIR mentioned that the declining water levels are occurring primarily in the eastern subbasin, not the central subbasin where the City is located. Please discuss the present and future decline of the groundwater levels, if any, that are happening in the central subbasin. If groundwater decline is happening, please identify what is causing it and consider this decline in the multiple year prediction analysis.
 - The Water Supply Assessment and EIR estimates predict the availability of water will remain the same at 15,944 afy no matter if a normal rainfall occurs or rain fails to fall over multiple dry years. The EIR stated that the largest component of recharge to the basin is from irrigation, followed by precipitation (PDF page 646). If no decline in the City's water availability is occurring, please identify how the City's water availability will remain the same in drought years if there is less precipitation recharge and call out any supplemental water amounts that will balance the declining recharge in the assessment, (PDF page 476).
 - The discussion of Project water demand for buildout during a normal rain year was calculated to be 2,294.3 acre-feet per year [afy] (Page 658), almost twice as much as the estimated 1,215.7 afy of project demand that the Water Supply Assessment determined (Appendices H, Table 2-3, PDF page 1692 [1,078.6 afy]). However, when discussing normal, single, and multiple dry years, the EIR used the lower 1,215.7 afy total water demand numbers from the Water Supply Assessment. Along with the changes above for the multiple year prediction analysis, please also recalculate Table 2.14-11 to reflect the adjusted acre-feet per year demand in the EIR, based on the increase in medium density residential land use.

When the CEQA review process is completed, please forward the following items with the permit application to the State Water Board, DDW Stockton District Office at DWPDIST10@waterboards.ca.gov:

- Copy of the EIR and Mitigation Monitoring and Reporting Plan (MMRP);
- Copy of all comment letters received and the lead agency responses as appropriate;
- Copy of the Resolution or Board Minutes adopting the EIR and MMRP; and
- Copy of the date stamped Notice of Determination filed at the Stanislaus County Clerk's Office and the Governor's Office of Planning and Research, State Clearinghouse.

Mr. Miguel Galvez

- 4 -

March 14, 2024

Please contact Lori Schmitz of the State Water Board at (916) 449-5285 or Lori.Schmitz@waterboards.ca.gov, if you have any questions regarding this comment letter.

Sincerely,

 Digitally signed by Lori Schmitz
Date: 2024.03.14 09:58:22 -07'00'
Lori Schmitz

Environmental Scientist
Division of Financial Assistance
Special Project Review Unit
1001 I Street, 16th floor
Sacramento, CA 95814

Cc:

Office of Planning and Research, State Clearinghouse

Bhupinder Sahota
District Engineer
Stockton District

Tahir Mansoor
Sanitary Engineer
Stockton District



2410 Janna Avenue

Modesto, California 95350

(209) 529-9546

FAX (209) 529-0243

March 14, 2024

Attn: Miguel Galvez, Contract City Planner
City of Riverbank
6707 3rd Street, Suite A
Riverbank, CA 95367
Email: riverwalk@riverbank.org

Re: River Walk Specific Plan and Draft EIR Comments

Dear Mr. Galvez,

The following comments are in reference to the River Walk Specific Plan and Draft Environmental Impact Report (EIR).

The Stanislaus Union School District, a transitional kindergarten through eighth grade district, has a northeast boundary that is located part way between Skittone Road and Coffee Road. This boundary progresses north, terminating at the Stanislaus River.

The planned north west villages of M, N and O are fully contained within the district boundaries. Upon further inspection, it appears that Villages L, J, H and K are partially contained within the district boundaries.

In the February 27, 2024 River Walk Specific Plan and Draft EIR Presentation to the City Council, it was mentioned on page 20, that a Notice of Preparation (NOP) was circulated to state and local agencies in 2021. Stanislaus Union School District did not receive any notification.

It is understood, through the review of the River Walk Specific Plan that the planned villages within the Stanislaus Union School District boundaries are designated for an active adult community. However, it is also understood that homeowners in the specified villages are authorized to build Accessory Dwelling Units (ADU) if they wish.

Villages located within the Stanislaus Union School District have the potential to generate additional students to be served in the district in the following ways:

- Active aging occupants caring for grandchildren
- Occupants of ADU's
- A change of designation from active aging restrictions to non-restrictive

The district is comprised of 5 elementary sites and 1 junior high school. The sites that would receive students from the River Walk Specific Plan would be Stanislaus Elementary School, located on Kiernan for TK through 6th grades, and Prescott Junior High School for 7th and 8th grades.

The concerns of the district are as follows:

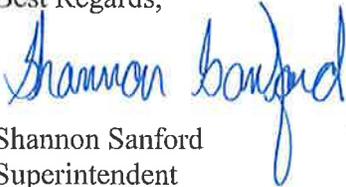
- Receiving future notifications, information and timelines
- Building facilities for additional growth including classrooms
- Expanding facilities for support programs such as food service and special education
- Expanding programs such as transportation
- Expanding workforce to accommodate growth

The oldest site in the district is Stanislaus Elementary School. As such, the district is currently in the process of using Measure Y bond funds to rebuild the site; however, Measure Y will not cover the full cost of the reconstruction. Recently approved projects/developments to the north in the district continue to generate additional students.

There are definitely solutions to the concerns listed by the district, but the solutions take a significant amount of time to implement as well as identification of additional funding.

We respectfully ask that the council keep in mind the obstacles listed including time and money when moving forward with discussion and planning on this project.

Best Regards,



Shannon Sanford
Superintendent



1231 Eleventh St.
P.O. Box 4060
Modesto, CA 95352
(209) 526-7373

March 18, 2024

City of Riverbank
6707 3rd Street, Suite A
Riverbank, CA 95367

RE: Notice of Availability – River Walk Specific Plan and Draft Environmental Impact Report, Riverbank, CA

Thank you for allowing the District to comment on this referral. Following are the recommendations from our Electrical, Irrigation and Domestic Water Divisions:

Irrigation

- Modesto Irrigation District's (MID) Water Operations would like to note the following comments to the Draft Specific Plan and the Draft Environmental Impact Report for the proposed River Walk Development.
- **Comments to the Specific Plan (Public Draft)**
 - The proposed Sphere of Influence (SOI) encumbers multiple irrigation infrastructure as noted in MID's December 18, 2020 utility verification response letter. Additional project-specific conditions of approval must be analyzed and evaluated once additional specific plans are completed in the future.
 - All proposed roads, bike paths, utility crossings must cross perpendicular to MID's Main Canal and Spenker Spill. All improvements located within MID right-of-way must be constructed to MID standards.
 - A Consent to Common Use Agreement is required between MID and the City of Riverbank for any proposed encroachments or proposed improvements within the existing MID right-of-way.
 - License Agreements are required between MID and any dry utility company that proposes any dry utility encroachments or proposed improvements within the existing MID right-of-way.
 - The SP states that there is currently one (1) stormwater outfall to an MID canal. There are currently five (5) stormwater outfall/discharges into MID's canal system.
- **Comments to the Public Draft Environmental Impact Report**
 - (P. 95 – "Proposed Circulation Network")
 - This section must note that there are proposed road crossings of MID's Main Canal and Spenker Spill. All crossings proposed within MID right-of-way require a Consent to Common Use Agreement between MID and the City of Riverbank. Additionally, all road crossings must be designed and constructed to MID construction standards.

- (P. 100 – “Proposed Pedestrian, Bicycle, and Transit Circulation”)
 - This section must note that there are proposed road crossings of MID’s Main Canal and Spenker Spill which include bike/pedestrian paths. All crossings proposed within MID right-of-way require a Consent to Common Use Agreement between MID and the City of Riverbank. Additionally, all road crossings must be designed and constructed to MID construction standards.
- (P. 453 – “Drainage”)
 - The SP states that there is currently one (1) stormwater outfall to an MID canal. There are currently five (5) stormwater outfall/discharges into MID’s canal system.
 - Add in the sentence “Although MID provides irrigation water within the vicinity of the SP & SOI, majority of the land within the SP lies outside of MID’s irrigation service boundary.
- (P. 659 – “Existing Drainage Facilities”, paragraph 1)
 - Although the City of Riverbank currently discharges stormwater into MID’s Main Canal and Lateral No. 6 within the existing City limits, the MID Main Canal and Spenker Spill Canal are not considered existing drainage facilities to the parcels located within the SP nor the SOI.
 - The SP states that there is currently one (1) stormwater outfall to an MID canal. There are currently five (5) stormwater outfall/discharges into MID’s canal system.
 - Add in the sentence “Although MID provides irrigation water within the vicinity of the SP & SOI, majority of the land within the SP lies outside of MID’s irrigation service boundary.
 - Background information for the MID irrigation facilities is summarized within Section 3.9 titled Hydrology and Water Quality (page 448 to 449). The last three (3) paragraphs that describe MID’s conveyance system should be relocated to Section 3.9 and not considered “Existing Drainage Facilities”
- (P. 660 – “Future Storm Water Drainage Demand and System Improvements”)
 - This section should note the proposal to discharge stormwater into MID’s Spenker Spill Canal and Lower Main Canal in lieu of discharging directly to the Stanislaus River via an NPDES permit.
- Additionally, MID holds the same comments and requirements as noted in the response dated December 18, 2020 which were the following:
- *Modesto Irrigation District (MID) operates an expansive system of canals, ditches, and pipelines which provide irrigation service to lands within its irrigation service area. Portions of the proposed Riverwalk Development in Riverbank, CA lie within MID’s irrigation service area. Planned urban development within MID’s irrigation service area typically requires the upgrade and/or relocation of existing MID infrastructure to accommodate planned development. The purpose of this response is to highlight MID irrigation facilities that may be impacted and set forth conditions of approval.*
- *MID records indicate that the following irrigation facilities lie within the proposed Riverwalk Development project area (Project) bounded by Patterson Road to the south, McHenry Avenue to west and the Stanislaus River to the north in Riverbank, CA. Please refer to the attached exhibit for clarification purposes. It should be noted that any and all project-specific conditions of approval are subject to change by MID.*

- **MID Facilities**

- *MID holds a one-hundred (100) foot right-of-way to the conveyance channel known as the "MID Main Canal" located at the southern end of the Project area.*
- *MID holds a one-hundred and fifty (150) foot right-of-way to the drainage canal known as the "Spenger Spill" located northeast of the MID Main Canal and towards the east end of the Project area.*
- *License Agreements shall be required for the proposed roadway and utility crossings shown on the Preliminary Project Layout.*
- *A six-foot masonry wall, or MID pre-approved equivalent, is required adjacent to the MID Main Canal and Spenger Spill right-of-way. The Developer must provide drainage for storm water runoff that may accumulate between the MID Lateral and the MID-required six-foot-tall solid masonry wall.*
- *Utility crossings shall be in accordance with MID Standard Crossing (CR) Details which are available online at <https://www.mid.org/isc/documents/M.I.D. Standards OutsideMID.pdf> or upon request.*
- *No public access, other than pedestrian and vehicle crossings, will be permitted within MID Lateral right-of-way. Access control gates shall be installed at all proposed MID Lateral crossings per MID standard M 15 – Typical MID Canal Roadway Gate Detail.*

- **Private Facilities**

- *There is an existing twenty-four (24) inch privately owned concrete pipeline that lies between APN: 074-003-010 and -011.*
- *There is an existing thirty (30) inch privately owned concrete pipeline that lies between APN: 074-003-014 and -015.*
- *Should the proposed project impact or otherwise alter the existing private infrastructure, MID recommends the developer consult with those who are served by the existing private infrastructure. The Developer should provide private irrigation easements for the benefit of those served by the existing private infrastructure to ensure that existing downstream users can have access to irrigation water and can continue to irrigate.*
- *Please note that the private pipelines are connected to the MID Main Canal. Therefore, should the private pipelines be upgraded, removed, relocated, or otherwise impacted please contact MID prior to any construction so that MID Civil Engineering staff may assess any possible impacts to the MID Main Canal.*

- **Improvement District Facilities**

- *There is an existing thirty (30) inch Improvement District (ID) concrete pipeline (ID No. 125 – Langdon Merl ID) that lies within APN: 074-003-016.*
 - *The Langdon Merl ID pipeline is currently active and serves many users downstream. The pipeline should be replaced with rubber gasketed reinforced concrete pipe (RGRCP) within the boundaries of the Project prior to development.*
- *There is an existing thirty (30) inch Improvement District (ID) concrete pipeline (ID No. 358 – Dickey ID) that lies within APN: 074-001-016.*

- *MID records indicate that APN: 074-001-016 holds an active irrigation account. Should the parcel be developed, the Landowner must contact MID's Water Operations Department at (209) 526-7562 to request a Sign-Off of Irrigation Facilities form prior to development. The pipeline must be saw-cut, plugged with a concrete cap and slurry fill, and removed within the project limits at the Project Owner's expense.*
- *Should an improvement district pipeline require an upgrade, replacement, and/or relocation, MID requires a dedicated thirty (30) foot irrigation easement centered on the pipeline.*
- *Should the project impact or otherwise alter existing improvement district infrastructure, the facilities must be upgraded, replaced, and/or relocated as required by MID.*
- **Active Irrigation Accounts**
 - *MID records indicate that the following parcels have active irrigation accounts with MID:*
 - *074-001-016*
 - *074-002-001 (257.1 acres lie outside of the MID service area. 42.3 acres lie within the MID service area.)*
 - *074-003-016, -015, -014, -011, -010, -019, and -018*
- *MID highly recommends that the project proponent coordinate with Landowners to discuss how their ability to irrigate may be impacted. If a Landowner would no longer like to receive MID irrigation water and be removed from MID's billing system, the applicant must contact MID's Water Operations Department at (209) 526-7562 to request a Sign-Off of Irrigation Facilities form for the parcels. Parcels that will be developed and no longer receive MID irrigation water must sign-off before development.*
- **Storm Water Drainage**
 - *MID's Lower Main Canal currently receives a significant amount of storm water primarily from upstream dischargers. Given the large amount of existing storm water conveyed by the Lower Main Canal, the discharge rate shall be limited to 10 gallons per minute per acre (GPM/Acre) and shall not exceed 5 cubic feet per second (cfs).*
 - *The proposed discharge from the west basin into MID's Lower Main Canal must be installed downstream of the existing Langdon Merl drop/check structure with a bypass to upstream of the drop/check structure. Please see the attached project site map for clarification.*
 - *MID's agreement with Oakdale Irrigation District to utilize Spenker Spill requires MID to reserve 300 cfs for OID inflows. The rated capacity for Spenker Spill is 300 cfs so it has reached its capacity. Therefore, no storm water discharge can be accepted into the Spenker Spill.*
 - *Storm water from each discharge point to MID's system, which would exceed available capacity in MID's system shall be held in detention basins or otherwise held by City/discharger until such time as capacity exists within MID's facilities for safely receiving such discharge.*
 - *A Storm Drainage Agreement between MID and an appropriate party must be adopted prior to construction and any resulting discharge by MID's Board of Directors. A template of the Storm Drainage Agreement is attached.*

- *Included as part of the aforementioned Storm Drainage Agreement will be an annual fee for storm drainage discharged to MID as permitted by the Storm Drainage Agreement. The fee is based off of a defined capacity reservation and will be assessed on a unit rate basis. MID recommends that the developer contact MID's Civil Engineering Department to discuss additional details inclusive of development of a community service district or like entity through which the annual fees can be collected from each parcel within the development and ultimately paid to MID.*
- **Drainage Ditch Pump**
 - *An agreement between MID and F.L. Hogue dating back to 1932 shows that MID provided electric service for the drainage pump near the end of the ditch. The pump lies outside of MID's irrigation service area. Please contact MID's Electrical Engineering Department for more information.*
- **General Requirements**
 - *Relocation of MID irrigation infrastructure to the benefit of the development must be coordinated and approved by MID. All costs associated with design, approval and analysis, and construction of relocations shall be at the Developer's expense.*
 - *License Agreements are required for any existing encroachments or proposed improvements within the current or future MID easement/right-of-way. MID will not permit any structures within the easement area. MID will require a Facility Modification Agreement before any work can be done on MID irrigation infrastructure.*
 - *Draft improvement plans must be submitted to MID's Civil Engineering Department for review and approval prior to the start of any construction. The plans should include the location and description of the existing irrigation facilities that lie within the project area. The size, type, and location of the existing irrigation facilities must be located and verified in the field and shown on the final proposed plans.*
 - *MID's Civil Engineering Department recommends a pre-consultation meeting to discuss MID irrigation requirements. MID irrigation standard details are available online and may also be provided upon request.*
 - *MID will require the Applicant to submit to MID's Civil Engineering Department the final proposed plans, MID's Application for Land Development Project Review form, and the respective fees as noted on the Application.*
 - *All work affecting irrigation facilities must occur during the non-irrigation season (typically November 1 to March 1). Irrigation service must not be interrupted.*

Domestic Water

- No comments at this time.

Electrical

- No comments at this time.

The Modesto Irrigation District reserves its future rights to utilize its property, including its canal and electrical easements and rights-of-way, in a manner it deems necessary for the installation and maintenance of electric, irrigation, agricultural and urban drainage, domestic water and telecommunication facilities. These needs, which have not yet been determined, may consist of poles, crossarms, wires, cables, braces, insulators, transformers, service lines, open channels, pipelines, control structures and any necessary appurtenances, as may, in District's opinion, be necessary or desirable.

If you have any questions, please contact me at (209) 526-7447.

Sincerely,

Lien Campbell

Lien Campbell
Risk & Property Analyst

Copy: File



Central Valley Regional Water Quality Control Board

18 March 2024

Governor's Office of Planning & Research

March 18 2024

Miguel Galvaz
City of Riverbank
6707 3rd Street
Riverbank, CA 95367
cityplanner@riverbank.org

STATE CLEARINGHOUSE

COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, RIVER WALK SPECIFIC PLAN, SCH#2021060098, STANISLAUS COUNTY

Pursuant to the State Clearinghouse's 31 January 2024 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Draft Environmental Impact Report for the River Walk Specific Plan*, located in Stanislaus County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by

MARK BRADFORD, CHAIR | PATRICK PULUPA, Esq., EXECUTIVE OFFICER

the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.

Peter Minkel

Peter Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Ste. 170
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682



March 8, 2024

City of Riverbank
c/o Miguel Galvez, Contract City Planner
6707 3rd Street, Suite A
Riverbank, CA 95367

Governor's Office of Planning & Research

March 19 2024

STATE CLEARINGHOUSE

Subject: Comments on the River Walk Specific Plan Environmental Impact Report (State Clearinghouse No. 2021060098)

Dear Mr. Galvez,

The Central Valley Flood Protection Board (Board) appreciates the opportunity to comment on the Environmental Impact Report (DEIR) for the proposed River Walk Specific Plan (proposed project). The DEIR will be prepared to disclose and address potential environmental impacts associated with the proposed project. The proposed project is located in Stanislaus and involves the expansion of the City of Riverbank Sphere of Influence by approximately 1,522 acres, annexation of approximately 993 acres in to the City limits, extension of infrastructure to the annexed area, and development of the annexed area, including trails and utilities.

Responsibility of the Central Valley Flood Protection Board

The Board is the State's regulatory agency responsible for ensuring appropriate standards are met for the construction, maintenance, and operation of the flood control system that protects life, property, and habitat in California's Central Valley. The Board serves as the State coordinator between local flood management agencies and the federal government, with the goal of providing the highest level of flood protection possible to California's Central Valley.

The Board operates under authorities as described in California Water Code (Water Code), which requires the Board to oversee future modifications or additions to facilities of the State Plan of Flood Control (SPFC). In addition, pursuant to assurances provided to the United States Army Corps of Engineers (USACE) by the Board on behalf of the State, the USACE Operation and Maintenance Manuals, Code of Federal Regulations, Title 33, § 208.10, and United States Code, Title 33, § 408, the Board is responsible for the operation and maintenance of the SPFC facilities. The USACE requires the Board to serve as the lead non-Federal sponsor for projects to improve or alter facilities of the SPFC pursuant to Code of Federal Regulations, Title 33, § 408. The State's objectives include fulfilling the USACE's expectations pursuant to the assurances provided to the USACE.

Mr. Galvez
Page 2 of 2

Encroachment Permit

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

Federal permits, including USACE Section 404 and Section 10 regulatory permits and Section 408 Permission, in conjunction with a Board permit, may be required for the proposed project. In addition to federal permits, state and local agency permits, certification, or approvals may also be required. State approvals may include, but are not limited to, California Department of Fish and Wildlife's Lake and Streamed Alteration Agreement and Regional Water Quality Control Board's Section 401 Water Quality Certification. The Applicant must obtain all authorizations that the proposed project may require.

Flood Impacts Analysis

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

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

Mr. Galvez
Page 2 of 2

Closing

Subsequent environmental documentation may need to be reviewed by the Board and USACE for individual projects. The potential risks to public safety, including increased flood risks, need to be considered when developing proposed projects that seek to modify flood control works or the hydrology of the water ways. Board staff is available to discuss any questions you have regarding the above comments. Please contact Jennifer Calles at (916) 837-3683, or via email at Jennifer.Calles@CVFlood.ca.gov if you have any questions.

Sincerely,

Andrea Buckley

Andrea Buckley, Manager
Environmental Services and Land Management Division

cc: Office of Planning and Research
State.Clearinghouse@opr.ca.gov

Miguel Galvez, Contract City Planner
City of Riverbank
riverwalk@riverbank.org



**Community & Economic
Development Department**

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May 1, 2024

City of Riverbank
Development Services Department
6707 3rd Street, Suite A
Riverbank, CA 95367
Attn: Miguel Galvez
Contract City Planner

RE: Public Review Period of a Draft Environmental Impact Report for River Walk Specific Plan ("RWSP")

Dear Mr. Galvez,

This letter contains the City of Modesto's ("Modesto") comments on the Draft Environmental Impact Report ("DEIR") for the City of Riverbank's proposed River Walk Specific Plan ("Project"). As detailed below, the DEIR fails to comply with the California Environmental Quality Act, Public Resources Code sections 21000, *et. seq.* ("CEQA") in numerous and fundamental ways. The City of Riverbank should not approve the Project until it fully complies with CEQA by preparing and recirculating a new Draft EIR which contains a full analysis of the environmental impact of the Project, adequate mitigation to address the numerous significant impacts and consideration of meaningful alternatives to reduce the direct, indirect and cumulative impacts of the Project in accordance with CEQA requirements, in order to allow the decisionmakers and public to understand and consider the Project's significant impacts.

The DEIR fails to satisfy CEQA's fundamental public disclosure requirements. (Pub. Res. Code, § 21061; CEQA Guidelines, § 15121.) These deficiencies demonstrate that the DEIR fails to comply with CEQA's foundational requirement that it serve as "an informational document." (Pub. Res. Code, § 21061; CEQA Guidelines, § 15121.) As the California Supreme Court held in *Sierra Club v. City of Fresno* (2018) 6 Cal.5th 502 ("*Friant Ranch*"), an EIR must include enough detail "to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." (*Friant Ranch*, 6 Cal.5th at 516.) An EIR must be able to explain to the lay reader the real-world environmental impacts of a project. (*Id.*) The Project DEIR repeatedly fails in this regard and thus does not meet CEQA's fundamental requirements. The City of Riverbank is violating CEQA – both in letter and in spirit – by circulating a document that drastically mischaracterizes Project direct, indirect, and cumulative impacts and entirely ignoring the significant and foreseeable impacts of development within the Reserve Area portion of the City's expanded Sphere of Influence. As detailed below, the City is abusing the CEQA process to annex vast swaths of land, with no regard for the environmental consequences. The DEIR will not survive judicial scrutiny.

I. ENVIRONMENTAL IMPACT ANALYSIS IS INADEQUATE, CONCLUSORY AND DEFERRED

As described above, the California Supreme Court's holding in the *Friant Ranch* case sets forth the standard for ensuring an EIR satisfies CEQA's mandate as an "informational document." A conclusory discussion of a significant impact renders the EIR inadequate as a matter of law. (*Id.* at 522.) Not only must the discussion of project impacts provide substantial evidence to support its conclusion about the severity of the impacts, but an EIR also must "provide an adequate analysis to inform the public how its bare numbers translate to create potential adverse impacts." (*Friant Ranch*, 6 Cal.5th at 521.) In other words, the EIR must, in plain language, give a "sense of the nature and magnitude of the 'health and safety problems caused by the physical changes' resulting from the Project." (*Id.* at 522.) Here, the DEIR does not satisfy the *Friant Ranch* standard and fails as a matter of law by inadequately evaluating the Project's environmental risks and not disclosing the true scope and magnitude of the Project's impacts.

The analysis of environmental impacts in the DEIR suffers from the following types of deficiencies: inadequate, incomplete, conclusory, and deferred. These deficiencies appear throughout the DEIR in almost all impact areas. The following list provides examples of these inadequacies:

1. Utilities and Service Systems

- (a) Impacts 3.14-1 through 3.14-6: Sufficiency of utility system capacity to accommodate Project's demands, and environmental impacts of infrastructure expansion, related to wastewater treatment and collection, stormwater drainage, water supply, and solid waste facilities.**
 - (i) Conclusory, Deferred, and Inadequate Analysis: The DEIR does not analyze impacts related to Reserve Area and Sphere of Influence expansion demand, capacity, and environmental impacts of new or expanded infrastructure necessary to accommodate reasonably foreseeable development therein. The DEIR improperly defers analysis regarding sufficiency of water supply and adequacy of stormwater, wastewater and solid waste infrastructure related to reasonably foreseeable development of the Reserve Area and Sphere of Influence expansion without citing to evidence demonstrating the infeasibility of quantifying impacts of Reserve Area development on utilities and service systems. Additionally, the analysis does not address the likelihood that the Reserve Area would be developed within the horizon used for assessing water supply sufficiency [2025 through 2045].
- (b) Impact 3.14-1: New or expanded wastewater treatment or collection facilities would cause significant environmental effects.**
 - (i) Deferred Analysis: Deferral of analysis regarding engineering studies to verify existing downstream conveyance system for development of Specific Plan Area and its adequacy, without citing to evidence demonstrating why the modeling of these impacts in the DEIR cannot be

done at this time. Inconsistent with Project-level review standard for Specific Plan.

- (ii) Inadequate Analysis: While the DEIR describes the new infrastructure, it does not analyze its impact on the environment beyond stating that the location of the sewer line was planned to ensure setback from the River and associated riparian habitat. Additionally, the DEIR states that “[i]mpacts associated with the WWTP and Recycled Water Storage and Distribution have been analyzed under a separate CEQA document for those improvements.” The DEIR does **not** comply with CEQA requirements for incorporation of analysis from other EIRs. DEIR also does not specify what documents these are or where they can be found.

(c) Impact 3.14-2: Wastewater treatment or collection provider would have sufficient capacity to serve projected demand associated with proposed Project, in addition to existing commitments.

- (i) Deferred Analysis: DEIR concedes additional wastewater treatment plant upgrades are reasonably foreseeable and needed to mitigate Project impacts but does not describe such upgrades or analyze their impacts.

(d) Impact 3.14-3: New or expanded water facilities would cause significant and unavoidable effects.

- (i) Deferred Analysis: Analysis of the impacts and timing of when the proposed wells and 2-million-gallon tank will be necessary to serve the development are improperly deferred until the preparation of improvement plans.

(e) Impact 3.14-4: Sufficient water supplies to serve the Project from existing entitlements and resources.

- (i) Inadequate Analysis: Does not address projected demand under full build out of all existing planned development in service area in addition to the Project which is required for water supply analysis under CEQA.
- (ii) Inadequate Analysis: The City's 2020 UWMP does not reflect proposed development under the project. Per Water Code section 10910, if the projected water use is not covered in the most recent urban water management plan, that plan cannot be relied on for the required groundwater supply assessment. The water supply assessment prepared for the Project must address whether total projected water supplies available under various conditions will meet both the projected water demand associated with the project, as well as the water system's existing and planned future uses.
- (iii) Inadequate Analysis: Analysis does not address groundwater resources within the scope of existing and planned development for other cities

drawing from same subbasin. This skews the analysis and does not adequately analyze future shortages. Per Water Code section 10910(f), water supply assessment must address competing demands for the groundwater.

- (f) **Impact 3.14-5: New or expanded stormwater facilities would cause significant and unavoidable effects.**
 - (i) Inadequate Analysis: DEIR does not analyze environmental impacts of drainage system alternative, which would require expanding infrastructure into Reserve Area.
- (g) **Impact 3.14-6: Sufficient permitted landfill capacity to accommodate Project's solid waste disposal needs while complying with applicable laws related to solid waste.**
 - (i) Inadequate Analysis: DEIR analysis does not demonstrate that new solid waste generation would not exceed state or local standards, and instead simply lists state diversion laws without discussing how Project would comply. Concludes that impact on local infrastructure would be less than significant, but states that "[t]he Project would increase the local waste stream and could require the City to invest in additional resources for the collection and disposal of solid waste." Such resources requiring expansion would be considered local infrastructure that is currently inadequate for the projected demand.
- (h) **Failure to consider City of Modesto water system adjacent to Project.**
 - (i) Inadequate Analysis: DEIR fails to analyze or consider the impact of the Project on the City of Modesto water system and wells in Del Rio community adjacent to Riverbank and Project Area.

2. Biological Resources

- (a) **Impacts 3.4-1 through 3.4-10:**
 - (i) Deferred, Inadequate and Conclusory Analysis: DEIR does not analyze biological impacts related to Reserve area or expanded sphere of influence.
- (b) **Impact 3.4-1: Potential for substantial direct or indirect effect on special-status invertebrate species.**
 - (i) Inadequate Analysis: Analysis does not address *indirect* impacts to Valley Elderberry Longhorn Beetle, and only states habitat will not be directly impacted.

(c) Impact 3.4-3: Potential for substantial direct or indirect effect on special-status bird species.

- (i) Inadequate Analysis: Analysis cites equipment storage areas and debris piles as locations within Specific Plan area that have adequate habitat for nesting and burrows of burrowing owls but does not discuss impact of development on these habitats.
- (ii) Inadequate Analysis: Analysis does not address whether areas designated for Buffer/Greenway/Open Space would indirectly impact bird species through human presence due to planned recreation uses.
- (iii) Inadequate Analysis: Analysis does not address whether allotting conservation easements for use by multiple special-status bird species would result in population or community impacts if species cannot coexist or if resources are insufficient to support both populations.

(d) Impact 3.4-4: Potential for substantial direct or indirect effect on special-status mammal species.

- (i) Inadequate Analysis: Analysis does not explain impacts on food sources, and in turn, population stability, if Specific Plan development of “quality forage” found in agricultural areas is destroyed.

(e) Impact 3.4-5: Potential for substantial direct or indirect effect on certain plant species.

- (i) Inadequate Analysis: Analysis briefly mentions that the areas of riparian habitat being used for river access (fishing, swimming, and boat launch) would be “cleaned up” as part of the proposed Project and maintained for river access, but does not discuss how City would protect species from impacts of recreation in these areas, i.e., by limiting river access for certain purposes or times, and impact of construction of improvements related to recreational use.
- (ii) Inadequate Analysis: DEIR does not analyze impact of roadway construction on plant species in bluff area. See 3.4-54, “The bluff area will remain as open space and will not be disturbed with the exception of a few areas that will require roadway construction.”

(f) Impacts 3.4-6 and 3.4-8:

- (i) Inadequate Analysis: Analysis completely ignores biological resource impacts of the construction and operation of 1.4 miles of force mains for wastewater that would need to cross under the Stanislaus River. (See 3.14-14.)

(g) Impact 3.4-7: Potential to result in adverse effects on riparian habitat or other sensitive natural community.

- (i) Inadequate Analysis: Analysis does not address impacts of designating riparian habitat as Buffer/Greenway/Open Space for use as Bluff or as a River Park. Analysis states River Walk Park would use some portion of riparian habitat for public recreation uses such as walking trails, picnic tables, bench areas, outdoor exercise stations, wildlife viewpoints, and river access points for non-motorized travel, but does not discuss direct or indirect impact of these uses on riparian habitat.

3. Land Use, Population, and Housing

(a) Impact 3.10-2: The proposed Project would not conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project adopted to avoid or mitigate an environmental effect.

- (i) Inadequate Analysis: DEIR fails to analyze blatant inconsistency with LAFCO Policies 21 and 22, prioritizing the development of vacant or underutilized land before annexing additional territory and preserving agricultural lands. The Project would directly violate these policies by annexing land without first utilizing vacant and underutilized land within the City's boundaries for the stated objective of increasing the housing supply, and by converting a huge amount (661.33 acres) of LAFCO designated Prime Farmland within the Specific Plan area to non-agricultural uses. The DEIR fails to analyze similar issues arising under inconsistency of Project and Government Code section 56300, requiring LAFCO to exercise its power in a manner that encourages planned, well-ordered, and efficient development patterns that consider preserving agricultural lands within those patterns.

4. Cultural and Tribal Resources

(a) Impact 3.5-1: Potential to cause substantial adverse change to historic, archaeological, or tribal cultural resource.

- (i) Conclusory analysis: Analysis concedes that "most projects in the region that involve ground-disturbing activities" hold a "potential for discovering subsurface cultural or tribal cultural resources" rather than using more comprehensive or detailed means of surveying within the Project Area. Analysis fails to explain how City determined Artifact ML-20-01 is not associated with events that have made a significant contribution to the broad pattern of CA cultural and historical heritage. The lack of this analysis leads to failure to consider alternative plans or mitigation measure to reduce impacts.
- (ii) Deferred Analysis: Deferral of complete coverage surveys until actual development within Specific Plan area, when the entitlements sought by

Project approval would authorize development. Does not explain which future entitlements fall within that scope that have not been subject to a complete coverage survey.

- (iii) Inadequate Analysis: Hundreds of acres of the Project Area have not been surveyed. Given the high likelihood of prehistoric use of the area, geophysical prospecting, including but not limited to ground-penetrating radar (GPR) and magnetometry, should be conducted prior to approval of the DEIR in order to delineate the boundaries of the sites.

5. Aesthetics

(a) Impact 3.1-1: Substantially degrade visual character.

- (i) Inadequate Analysis: Analysis does not address degradation of visual character by new development adjacent to Stanislaus River and its riparian habitat.

6. Agricultural Resources

(a) Impact 3.2-2: The proposed Project has the potential to conflict with existing zoning for agricultural use, or Williamson Act Contracts.

- (i) Inadequate Analysis: Analysis does not consider the seven Williamson Act parcels in the Reserve Area because it claims development in that area is not reasonably foreseeable. (See page 3.2-23, "Nor... would the extension of the SOI into the Reserve Area create a conflict with the other nine [sic] Williamson Act contracts, as development in the Reserve Area is not currently reasonably foreseeable.") This statement is inconsistent with analysis elsewhere that indicates development in the Reserve Area is, in fact, reasonably foreseeable. (See page 3.2-19, "*the proposed Project may indirectly lead to a future conversion of this [Reserve] land.*")
- (ii) Inadequate Analysis: Analysis does not consider change of zoning in Specific Plan area, from agricultural zoning to urban development, as a significant impact to agricultural zoning. The DEIR claims that, because LAFCo requires the City to prezone the specific plan area prior to annexation, when LAFCo approves the entitlements it "would ensure that there are no conflicts with agricultural zoning" and as such, the impact would be less than significant.

7. Air Quality

- (a) Impact 3.3-1: Project operations could result in cumulatively considerable net increase of a non-attainment criteria pollutant for the Project region and could conflict or obstruct implementation of District's air quality plan.

- (i) Inadequate Analysis: DEIR uses qualitative approach to correlating Project's air pollutant emissions to likely health consequences when a quantitative approach can be performed and is needed to fully disclose impacts due to Project's large emissions of pollutants.
- (b) **Impact 3.3-3: Proposed Project would not generate carbon monoxide hotspot impacts.**
 - (i) Inadequate Analysis: DEIR does not explain how its conclusion of less than significant impacts is consistent with its earlier finding that Project's mitigated daily operational carbon monoxide emissions would exceed threshold by nearly 5-fold. See Table 3.3-10.
- (c) **Fails to analyze Valley Fever.**
 - (i) Inadequate Analysis: DEIR fails to analyze development contribution to adverse health impacts due to *Coccidioidomycosis*, more commonly known as "Valley Fever," an infection caused by inhalation of the spores of the *Coccidioides immitis* fungus, including endemicity to Project Area and need for mitigation.

8. Transportation and Circulation

- (a) **Fails to analyze impacts to Del Rio community.**
 - (i) Inadequate Analysis: DEIR fails to analyze the impact of the Project's development on the adjacent Del Rio community located in Modesto.

II. MITIGATION MEASURES ARE INADEQUATE, DO NOT HAVE ENFORCEABLE STANDARDS AND ARE IMPROPERLY DEFERRED

CEQA requires mitigation measures to be "feasible and enforceable" and does not permit deferred or insufficiently detailed mitigation. CEQA requires lead agencies to consider appropriate mitigation and implement all feasible mitigation measures. (See *Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm'rs*, (2001) 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564-65.)

As provided in *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, "[s]imply stating that there will be no significant impacts because the project incorporates 'special construction techniques' [or, as relevant here, 'specific plan requirements'] is not adequate or permissible." *Lotus*, 223 Cal. App. 4th at 657. The DEIR's incorporation of numerous project design features in lieu of mitigation measures for many potential impacts blurs the line between actual project design elements and mitigation measures. "The failure of the DEIR to separately identify and analyze the significance of the impacts [] before proposing mitigation measures is not merely a harmless procedural failing...[t]his short-cutting of CEQA requirements subverts the purposes of CEQA by omitting material necessary to informed decision-making and informed public participation." *Id.* at 658.

The mitigation contained in the DEIR comprises both impermissible deferred and insufficiently detailed mitigation, and thus needs to be revised and recirculated in order to comply with CEQA. *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70. For example, throughout the DEIR, mitigation is improperly deferred, lacks enforceable performance standards, does not clearly reduce impacts, and conflates voluntary project design standards with actual mitigation measures. The following non-exhaustive list of mitigation issues demonstrates key shortcomings in the mitigation analysis.

1. Agricultural Resources

(a) Impact 3.2-1: Conversion of Important Farmland.

- (i) Inadequate Mitigation: MM 3.2-1: Project applicant must conserve farmland in accordance with the City of Riverbank's Sustainable Agricultural Strategy. MM 3.2-1 claims that "City has already incorporated all available mitigation for the loss of agricultural land in the form of General Plan policies and implementation strategies" without explaining how additional mitigation measures would be infeasible for reducing impacts to less than significant. MM 3.2-1 also defers mitigation on a project-by-project basis and inadequately analyzes the indirect impact of conversions on important farmland immediately adjacent to the Project boundaries.
- (ii) Inadequate Mitigation: MM 3.2-2: Participation in LAFCo's Agricultural Preservation Policy prior to conversion of agricultural lands in the Specific Plan Area. MM 3.2-2 only applies to Specific Plan Area development and does not reduce impacts to all areas of the Project which will result in the loss of agricultural land.

(b) Impact 3.2-3: Potential to conflict with adjacent agricultural lands or indirectly cause conversion of agricultural lands.

- (i) Inadequate Mitigation: MM 3.2-3: Right to Farm disclaimer recordation against affected properties, notifying new landowners of permitted agricultural uses to minimize future nuisance claims. MM 3.2-3 focuses on nuisance claims and does not address potential conversion of adjacent agricultural land as an indirect impact of encroaching urban use.

2. Biological Resources

(a) Impact 3.4-1: Potential for substantial direct or indirect effect on special-status invertebrate species.

- (i) Inadequate, Deferred, Conflates Mitigation with Project Design: DEIR presents mitigation measures creating substitute habitat for bumble bees after development as project design "on-site within yard areas, park areas, and along the River corridor...." This conflation of mitigation measures and project design avoids required analysis of which impacts

the design elements seek to mitigate and the effectiveness of the mitigation measures on reducing levels of significance.

- (b) Impact 3.4-2: Potential for substantial direct or indirect effect on special-status reptile or amphibian species.**

 - (i) Ineffective Mitigation: MM 3.4-3 is ineffective because it fails to address the potential impact of moving western pond turtles to alternative habitat on population levels or the risk of thereby eliminating a community.
 - (ii) Ineffective Mitigation: MM 3.4-4 is ineffective because, although it calls for incidental take to be reported to USFWS and CDFW, it does not specify which party is responsible for doing so.
- (c) Impact 3.4-3: Potential for substantial direct or indirect effect on special-status bird species.**

 - (i) Ineffective Mitigation: MM 3.4-7, Regarding protection of other bird species. MM 3.4-7 is ineffective because it does not define "all areas of suitable habitat" or clarify how such areas would be determined and by whom.
- (d) Impact 3.4-4: Potential for substantial direct or indirect effect on special-status mammal species.**

 - (i) Inadequate, Vague, Ineffective Mitigation: MM 3.4-8 does not explain whether the bat eviction and exclusion plan applies only to special species of bats, does not describe impacts of bat eviction on population size, stability etc., and does not specify whether a qualified biologist is responsible for assessing all roosting areas for suitability for purposes of the two-step tree removal process. Neither MM 3.4-8 nor MM 3.2-1 explain whether conservation easements for agricultural resource preservation are intended to also serve as biological resource conservation easement areas for displaced bats, reptiles, raptors, and, if so, how agricultural uses would not adversely impact species.
- (e) Impact 3.4-6: Potential for substantial adverse effect on protected wetlands and jurisdictional waters.**

 - (i) Inadequate, Ineffective Mitigation: MM 3.4-9 is ineffective because it would not protect wetlands or jurisdictional waters outside of agricultural ditches, because it would be unenforceable and entirely the responsibility of the property owner, and because it falls short of the analysis standards provided in the CEQA Appendix G checklist by only targeting fill authorizations and not addressing impacts from direct removal, hydrological interruption or other means. MM 3.4-9 is also inadequate because it does not explain how it would reduce significance level to less than significant.

3. Utilities and Service Systems

(a) **Impact 3.14-1: New or expanded wastewater facilities would cause significant environmental effects.**

- (i) Inadequate Mitigation, Vague and Unclear: Specific Plan would be approved before adequate WWTP infrastructure is built that has enough capacity for the existing City of Riverbank *and* for new development in the Specific Plan area. There is no foreseeable plan for providing this infrastructure, as no funding exists for required WWTP capacity expansion and there is no construction schedule or design. Additionally, the DEIR makes an unsupported conclusion that the level of significance would be lower without mitigation than with it.

(b) **Impact 3.14-2: Wastewater treatment or collection provider would have sufficient capacity to serve projected demand associated with proposed Project, in addition to existing commitments.**

- (i) Deferred Mitigation: MM 3.14-1 requires each applicant to secure sewer allocation from the City before obtaining an occupancy certificate. However, the DEIR states on 3.14-18 that the additional capacity generated by the proposed measures would be barely sufficient to serve Specific Plan Area's projected need, and then states that if any developments elsewhere in the City's SOI request some of the available capacity, the Specific Plan Area would need to share the additional capacity. Such development is reasonably foreseeable and would render this impact significant and unavoidable after mitigation because of the ineffective mitigation.
- (ii) Ineffective Mitigation: MM 3.14-1 requires each applicant to secure sewer allocation from the City before obtaining an occupancy certificate. The analysis concludes that the Specific Plan's discharge requirements may exceed capacity, and concedes that there is no financing or design, engineering and construction schedule secured. Moreover, this MM is inconsistent with the "project-level" entitlements sought in the Specific Plan Area.
- (iii) Ineffective Mitigation: MM 3.14-1 improperly defers the City's responsibility to ensure adequate infrastructure prior to construction, rather than prior to occupancy. MM would be implemented "prior to issuance of an occupancy certificate" not prior to construction permits. This could leave constructed structures, and associated impacts, which exceed capacity and cannot be occupied.

(c) **Impact 3.14-5: New or expanded stormwater facilities would cause significant and unavoidable effects.**

- (i) Conflates Mitigation with Project Design: DEIR presents mitigation measures as project design, shortcutting required analysis of which impacts the design elements seek to mitigate and efficacy thereof. Also the enforceability and monitoring of Project Design features that act as mitigation is not explained.

4. Cultural and Tribal Resources

(a) **Impact 3.5-1: Potential to cause substantial adverse change to historic, archaeological, or tribal cultural resource.**

- (i) Inadequate Mitigation: MM 3.5-1 requires cultural resource protection and avoidance, in part through tribal consultation. However, MM 3.5-1 is inadequate and ineffective. MM3.5-1 Does not specify any process for tribal consultation or address the implication that the required consultation has not already been done through the AB 52 process. MM 3.5-1 limits consultation to “an ethnically appropriate group with Northern Valley Yokuts heritage” without following proper NAHC reporting procedures or verifying with the sovereign government that the person being given “an opportunity to participate” is actually a representative of a given band or tribe. Moreover, MM 3.5-2 provides no enforceable mechanism or timeline for contacting NAHC to obtain the names on the NAHC contact list of approved representatives.
- (ii) Deferred Mitigation: MM 3.5-2 requires cultural resource sensitivity training for construction workers. However, it defers approval of mitigation measures until after an archaeologist has made a significance determination, the City has approved that determination, and the archaeologist has then developed the mitigation measures for City approval. This unduly delays and hampers efforts toward avoidance and preservation in place. Additionally, MM 3.5-2 should include a tribal representative as a monitor during construction in known areas with cultural resources.
- (iii) Ineffective Mitigation: MM 3.5-2 is ineffective because it would not require a tribal monitor, an archaeological monitor, or avoidance of core areas. MM 3.5-2 is also ineffective because it relies on data recovery, which should only be used when actual preservation is not possible. MM 3.5-2 instead presents data recovery as a first line option, stating that “[i]f data recovery is determined by the City CDD to not be appropriate, then an equally effective treatment shall be proposed and implemented.”
- (iv) Ineffective Mitigation: MM 3.5-2 is ineffective because its terms are unclear and not defined, it conflicts with existing CEQA standards, and it gives too much discretion to a future person to make determinations on mitigation requirements and effectiveness of mitigation to reduce impacts. MM 3.5-2 gives the City Development Director [“CDD”] carte blanche to reject the archaeologist’s recommendation of significance based on

undefined criteria, to reject proposed mitigation measures based on undefined criteria (“unless otherwise directed by City CDD”), or to reject avoidance or preservation in place if doing so would preclude construction of “important” structures or require exorbitant expenditures. MM 3.5-2 does not provide standards regarding what makes a structure or infrastructure “important.” It does not define what “exorbitant” means. Pub Res Code section 21083.2(e) already has cost limitations for historic resource mitigation efforts, but the MM does not incorporate these standards, it leaves the determination entirely up to the CDD. Additionally, MM 3.5-2 does not provide specific criteria on which the CDD must base decision to resume work in no-work radius. It only states “that the preservation and/or treatment measures have been completed to the satisfaction of the City CDD.” Moreover, MM 3.5-2 provides no standards for what the City’s approval of the treatment plan is to be based on.

5. Air Quality

- (a) **Impact 3.3-1: Project operations could result in cumulatively considerable net increase of a non-attainment criteria pollutant for the Project region and could conflict or obstruct implementation of District’s air quality plan.**
- (i) Deferred and Ineffective Mitigation: MM 3.3-1, MM 3.3-2, and MM 3.3-3 improperly defer mitigation to a project-by-project basis that inadequately analyzes and fails to consider the cumulative impact of the Project as a whole. MM 3.3-1 is ineffective because it fails to commit to any enforceable threshold or performance standard.
- (ii) Ineffective Mitigation- MM 3.3-1 is ineffective because its terms are unclear and not defined and give too much discretion to a future person to make determinations on mitigation requirements and effectiveness of mitigation to reduce impacts. MM 3.3-1 gives the City Development Director [“CDD”] discretion to approve a Criteria Pollutant Reduction Plan without providing standards beyond a general “percentage contribution.” MM 3.3-1 fails to provide standards for the CDD’s approval of future adjustments to mandatory emissions reductions, providing an unenforceable and ineffective degree of discretion for the CDD to determine whether the applicant has presented “substantial evidence persuasive to the CDD” to justify changing mandatory emissions reductions. Moreover, the mitigation measure does not explain how it would achieve compliance with thresholds that the analysis already demonstrated cannot be met with the discussed mitigation measures. Finally, MM 3.3-1 does not impose enforceable mitigation measures as it is required to do to mitigate the significant and unavoidable impact of the Project. By merely suggesting possible strategies for achieving mandatory reductions, and by omitting feasible mitigation measures from its list of voluntary suggestions, the mitigation does not comply with CEQA standards.

(b) **Impact 3.3-4: Proposed Project has the potential for public exposure to toxic air contaminants.**

(i) Deferred, Ineffective Mitigation: MM3.3-4 improperly defers mitigation to future implementation of individual projects and does not commit to enforceable thresholds or performance standards, rendering it unenforceable and ineffective.

6. Greenhouse Gases, Climate Change and Energy

(a) **Impact 3.7-1: Project implementation could generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.**

(i) Ineffective Mitigation: MM3.7-1 inappropriately uses project-specific requirements as a performance measure, rendering MM 3.7-1 ineffective and unenforceable.

(b) **Impact 3.7-2: Project implementation could conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.**

(i) Inadequate Mitigation: DEIR concludes significant and unavoidable impact but does not include any mitigation measures which violates CEQA requirements that all feasible mitigation must be considered before a significant and unavoidable conclusion is reached. Moreover, DEIR concludes that impact would be less than significant after mitigation, without explaining what mitigation it is referring to and how it would reduce the impact.

III. IMPACT CONCLUSIONS ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE

CEQA requires an EIR include, among other things, a detailed statement setting forth “[a]ll significant effects on the environment of the proposed project” and “[m]itigation measures proposed to minimize significant effects on the environment.” (Pub. Res. Code, § 21100(b).) It is critical that an EIR analyze each impact for the entirety of the Project area, thoroughly consider all feasible mitigation measures, and make a threshold determination for the level of significance of each potentially significant impact, based on substantial evidence, reflecting the severity of the impact both before and after mitigation.

Here, the City repeatedly fails to base its conclusions regarding the level of significance on substantial evidence. The evidence in several impact chapters, as outlined in the following non-exhaustive list, shows that the City downplays the significant and unavoidable impacts of the Project across the wide array of environmental impacts throughout the DEIR. As a result, the City fails to consider appropriate mitigation to reduce these impacts, in violation of CEQA. (Pub. Res. Code, § 21081; CEQA Guidelines, § 15092(b)(2)(A), (B).) These fatal issues are detrimental to the document’s usefulness as tool for informed public participation and demand recirculation to address crucial and pervasive shortcomings.

1. Agricultural Resources

(a) Impact 3.2-1: Conversion of Important Farmland.

- (i) Concludes Significant and Unavoidable Impact Without Considering all Feasible: MM 3.2-1: Project applicant must conserve farmland in accordance with the City of Riverbank's Sustainable Agricultural Strategy. MM 3.2-1 claims that "City has already incorporated all available mitigation for the loss of agricultural land in the form of General Plan policies and implementation strategies" without explaining which additional mitigation measures were considered and why they are infeasible for reducing impacts.

(b) Impact 3.2-2: The proposed Project has the potential to conflict with existing zoning for agricultural use, or Williamson Act Contracts.

- (i) Unsupported Level of Significance Determination: The City concludes that the loss of 661.33 acres of LAFCO designated Prime Farmland within the Specific Plan area, currently zoned for agricultural use, and facing a change of zoning under the Specific Plan, is a "less than significant" impact that requires no mitigation. The DEIR does not consider the Project as the cause for the conversion of zoning, not for the cancellation of two Williamson Act parcels in the Specific Plan Area prior to annexation. The annexation is the triggering event for the cancellation of the contracts. The annexation would not occur but for the Specific Plan. Thus, the impact conclusion is conclusory and ignores significant and unavoidable impacts and related required mitigation measures.

2. Utilities and Service Systems

(a) Impacts 3.14-1, 3.14-3 and 3.14-5: New or expanded facilities would cause significant and unavoidable effects.

- (i) Concludes Significant and Unavoidable Impact Without Considering All Feasible Mitigation Measures: Analysis concludes that impacts are significant and unavoidable without considering any mitigation measures.
- (ii) Concludes Significant and Unavoidable Impact As Default Without Adequate Analysis: Analysis fails to identify which chapters of the DEIR conclude that expanded infrastructure would have a significant and unavoidable impact. Fails to state in plain language what the impacts are anticipated to be.

3. Biological Resources

(a) Impact 3.4-1 through 3.4-6.

- (i) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: Does not explain how City's methodology of field sampling only the Berghill Boundary and the Offsite Sewer Line is a representative method of sampling the larger Project area. This creates issues in the determinations of impact significance when the DEIR claims that there is no habitat within the Project Area, without explaining how it has verified this from the limited survey work they have done.
 - (ii) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: Analysis treats lack of identification of special-status species in CDFW NOP Comment Letter as affirmative statements that such species are not threatened, without citing to any authority for this standard.
- (b) **Impact 3.4-2: Potential for substantial direct or indirect effect on special-status reptile or amphibian species.**
- (i) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: Does not explain whether dewatering to install force mains under Stanislaus River and/or riparian habitat would impact population size or displacement or eliminate a giant garter snake community.
- (c) **Impact 3.4-4: Potential for substantial direct or indirect effect on special-status mammal species.**
- (i) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: Reasoning is inadequate, and evidence is not cited to support the finding that loss of hundreds of acres of agricultural foraging habitat for bats is less than significant, based on bats being highly mobile and able to "find forage in the vast agricultural regions of the Central Valley."
- (d) **Impact 3.4-8: The potential to result in interference with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.**
- (i) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: Analysis offers no support for City's conclusion that City maintenance of recreational river access areas would not present adverse effects.

4. Land Use, Population, and Housing

- (a) **Impact 3.10-2: The proposed Project would not conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project adopted to avoid or mitigate an environmental effect.**

- (i) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: DEIR ignores inconsistencies between Project and LAFCO Policies 21 and 22 and Government Code 56300, concluding that threshold impact would be less than significant and not require mitigation in blatant inconsistency with the facts stated in DEIR. Moreover, analysis claims that Section 3.14 found that utility infrastructure can be readily upgraded or extended to serve increased population demands, ignoring lack of funding, schedule, and deferred planning of infrastructure expansion to a project-by-project basis discussed in Utilities chapter.

(b) Impact 3.10-3: The proposed Project has the potential to induce substantial population growth in an area.

- (i) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: DEIR's "less than significant" conclusion is not supported by substantial evidence, ignores key facts, and obscures the impact of the Project. The DEIR cites to no evidence to support its conclusion that the Project would not significantly induce growth. The DEIR does not analyze the direct and indirect population growth to be expected from the reasonably foreseeable development of the Reserve Area. The Sphere of Influence expansion, described in the DEIR as a step in the entitlement process, demands that the entirety of the Project Area, including the Reserve Area, be analyzed. All evidence points to the significant and unavoidable impact to threshold 3.10-3. Given significant and unavoidable impact, the DEIR must consider all feasible mitigation measures and fails to do so, a further deficiency.

5. Greenhouse Gases, Climate Change and Energy

(a) Impact 3.7-1: Project implementation could generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.

- (i) Concludes Significant and Unavoidable Impact Without Considering all Feasible Mitigation Measures: MM3.7-1 fails to consider all feasible mitigation measures to reduce greenhouse gases, as required when impact is significant and unavoidable. In particular, Circulation component of MM3.7-1 fails to make any demonstrable effort at considering all feasible options for reducing greenhouse gas emissions.

(b) Impact 3.7-2: Project implementation could conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

- (i) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: Analysis of the project's consistency with CARB's Final 2022 Scoping Plan for Achieving Carbon Neutrality

demonstrates that the Project is definitively in conflict with California's applicable mid and long-term GHG emissions reduction targets. The fact that the Project is inconsistent with all but one of CARB's policies demonstrates that the project is fundamentally inconsistent with greenhouse gas reduction measures applicable to the Project Area. This analysis establishes without question that the proposed development is urban sprawl. This significant and unavoidable impact requires the consideration of all feasible mitigation measures which the DEIR fails to do. For example, the DEIR fails to consider a mitigation requiring the Project to go beyond the minimum Title 24 standards to mitigate the impact. This demonstrates that the Project as a whole is fundamentally at odds with CEQA as well as State goals of GHG reduction.

- (ii) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: The DEIR's analysis of Project consistency with StanCOG's 2022 RTP/SCS is misleading and deliberately ignores the goal of the SCS: to reduce VMTs. The DEIR's conclusion that the Project would be consistent with all of the VMT-focused goals of the SCS, immediately after concluding the Project would be fundamentally inconsistent with the CARB VMT goals, demonstrates the lack of substantial evidence underlying the conclusory significance level determinations that render the DEIR deficient.

(c) Impact 3.7-3: Project implementation would not result in inefficient, wasteful, or unnecessary use of energy resources.

- (i) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: The DEIR's analysis of this impact and subsequent impact determination are inadequate because the analysis relies solely on minimum standards set out in applicable regulations to reduce impacts to a less than significant level which is inconsistent with case law.

6. Air Quality

(a) Impact 3.3-1: Project operations could result in cumulatively considerable net increase of a non-attainment criteria pollutant for the Project region and could conflict or obstruct implementation of District's air quality plan.

- (i) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: DEIR concludes that air pollutant emissions would have a less than significant impact after mitigation. This is inconsistent with the data and analysis of the impact, which clearly concludes that even after mitigation, the emissions of non-attainment criteria pollutants exceed the applicable thresholds for reactive organic gas and particulate matter. See Table 3.3-9. Moreover, the mitigated quantity of operational carbon monoxide emissions per day would exceed the threshold nearly 5-fold. See Table 3.3-10. Thus, even after

mitigation, substantial evidence indicates that the impacts would be significant and unavoidable.

(b) Impact 3.3-4: Proposed Project has the potential for public exposure to toxic air contaminants.

(i) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: Analysis does not provide evidence to support conclusion that MM3.3-4 would reduce impacts to a less than significant level.

(c) Impact 3.3-5: Proposed Project would not cause exposure to other emissions adversely affecting a substantial number of people.

(i) Conclusion on Level of Significance is Not Based on Adequate Analysis or Substantial Evidence: Analysis does not provide evidence to support conclusion that, because Specific Plan would not include new odor producing uses, the Project's exposure of a significant number of people to other emissions that would adversely affect them would be less than significant. Less than significant conclusion is not supported by evidence or proper reasoning.

IV. PROJECT DESCRIPTION IS INACCURATE, INCONSISTENT AND DISTORTED

In order for an EIR to adequately evaluate the environmental ramifications of a project, it must first provide a comprehensive description of the project itself. CEQA requires that a proposed project be described accurately, consistently, and definitively. *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-93. "A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the 'no project' alternative) and weigh other alternatives in the balance. An accurate, stable, and finite project description is the sine qua non of an informative and legally sufficient EIR." *Id.* at 192-93. Here, the DEIR for the Project fails to meet these well-established legal standards because it fails to provide a stable and finite project description with respect to key components of the proposed Project that have the potential to result in significant environmental impacts not analyzed in the DEIR or which result in an underestimation of the Project's impacts on the environment.

A. Reserve Area Issue: DEIR cannot include Reserve as part of Project and not analyze potential impact of its development.

The DEIR's Project Description fails to satisfy CEQA requirements on several issues. Critical examples include: (1) the City's failure to identify the proposed purpose for expanding its sphere of influence to include the Reserve area; (2) lack of clarity as to whether the environmental impacts of expanding the Sphere of Influence to include the Reserve Area are actually analyzed in the DEIR; and (3) insufficient information to support the determination that Reserve Area development is not a reasonably foreseeable consequence of the Project. Each

of these flaws undermines the ability of the City of Modesto and other reviewers to understand the true scope of the Project. These flaws also invalidate the environmental impact analysis because the underlying assumptions for several impacts are not stable or accurate as they pertain to Reserve Area development.

As a critical example, the Project Description fails to definitively state the planning implications of the Sphere of Influence expansion, particularly as they pertain to the 525 acres of remaining land within the Project Area that are part of the SOI Amendment. The Project Description simply states that these 525 acres "would be held as Reserve land for possible long-range planning at some future time." (2.0-1.) This is an impermissibly broad justification for annexing hundreds of acres of some of the State's best farmland, and falls far short of the "accurate, stable, and finite project description" that defines a legally sufficient EIR.

To that end, the Project Description characterizes the Reserve Area as offering "an opportunity to plan for future land uses by identifying specific criteria before development takes place in these areas." Rather than providing clarification on what this specific criterion may pertain to, the Project Description's most detailed characterization of its plans for the Reserve Area entails explaining that it is "an overlay designation that specifies additional requirements related to timing of development, analysis required by the City, infrastructure and service standards, and related topics." (2.0-14.) Thus, the Project Description is impermissibly indefinite and fails to meet legal sufficiency standards for an EIR.

Moreover, the Project Description is inaccurate, claiming that "[t]his EIR analyzes the SOI Expansion area" when in actuality, the DEIR deliberately excludes analysis of environmental impacts across the vast swaths of Stanislaus County it seeks to add to its Sphere of Influence. (2.0-9.) Throughout the DEIR, the City of Riverbank avoids analyzing impacts to the Reserve Area based in its unsupported statement that development of the area is not sufficiently foreseeable to justify analysis. (5.0-35; 3.2-23.) The DEIR blatantly admits to such incomplete analysis in its summary of the No-Reserve Alternative:

Because it is not possible at present to predict in any meaningful way the nature and extent of the particular environmental impacts that would result from future planned development within the Reserve area, the environmental analyses found in Sections 3.1 through 3.14 of this EIR are focused on the reasonably foreseeable environmental impacts that would occur in the Specific Plan area, as that area is proposed for annexation and development in the relatively near term. Even so, there is no doubt that the No Reserve Alternative, which would *not* extend the SOI to include the area identified as "Reserve" in the proposed Project, would substantially lessen the long-term environmental effects of the proposed Project. Effects would be diminished because, under the No Reserve Alternative, there would be no assumption that, even in the long run, the property at issue would ever be developed and become a part of the City of Riverbank. Instead, the property would permanently remain subject to the existing County General Plan designations and zoning. This would conflict with the City's desire that has been expressed. (5.0-35.)

The ensuing impact analysis, or lack thereof, falls short of the “program-level analysis” the DEIR allegedly provides “for the balance of the Project Area” not included in the Specific Plan area. (2.0-10.) Specifically, the DEIR fails to evaluate the “reasonably foreseeable indirect physical changes in the environment which may be caused by the project.” (CEQA Guidelines § 15064(d)(3).) Instead, the DEIR relies on a number of unsupported fundamental assumptions that undermine the City’s entire analysis and underestimates the scope and magnitude of the Project’s potential for significant environmental impacts. Specifically, the DEIR waffles between suggesting development in the Reserve area is or is not reasonably foreseeable. It states that wastewater conveyance infrastructure will need to be extended throughout the project area, and that the Specific Plan’s collection system will be designed to accommodate a connection from the SOI expansion area. At the same time, it states that development outside the Specific Plan area is not possible to quantify for purposes of CEQA analysis and defers SOI expansion analysis to a later date.

For these reasons, in violation of the disclosure obligations affirmed by the California Supreme Court in *Friant Ranch*, the DEIR makes no attempt to realistically evaluate future conditions under both the Project scenario and alternatives scenarios, and it completely fails to “provide an adequate analysis to inform the public” about the scope and magnitude of the Project’s potential environmental impacts.

Additionally, the Project Description is inconsistent in its description of the Sphere of Influence expansion. Specifically, the Project Description states that the land outside the Specific Plan Area would not be annexed but would instead be held as Reserve land. (2.0-1.) This description is inconsistent with statements later in the DEIR that suggest that Reserve land is ultimately slated to be annexed into the City of Riverbank and zoned for urban development uses. For example, when analyzing the Project alternative that would not expand the Sphere of Influence to include the Reserve Area (“No-Reserve Alternative”), the DEIR states that “by expanding the SOI to McHenry Avenue, including the designated Reserve Area, and annexing the Reserve Area into the City, the proposed Project would take steps in the entitlement process towards future development of the land outside the Specific Plan Area, but within the Project Area.” (5.0-35.)

The statement that the Reserve Area SOI expansion is a step in the entitlement process towards future development of the Reserve Area is also inconsistent with the Project Description’s statement that these 525 acres “would be held as Reserve land for possible long-range planning at some future time.” (2.0-1.) Far more definite than a mere possibility, the DEIR later describes development and annexation of the Reserve Area as an “assumption.” (5.0-35.) The DEIR describes the SOI expansion as an action with the aim of reducing obstacles to future City land use planning without the need to obtain future entitlements. Based on this reasoning, the City concludes that the SOI expansion of the Reserve would result in indirect environmental impacts. (5.0-43.) The Project Description’s characterization of Reserve development as a mere possibility is inconsistent with its later characterization as an assumption. Thus, the Project Description falls short of legal sufficiency standards due to inconsistency.

The City must revise the Project Description so that it is accurate, stable, and intelligible and then recirculate the Draft EIR for public review and comment. Without an accurate project description, the public cannot be accurately informed as to the nature and scope of potential environmental impacts. (*Laurel Heights*, 47 Cal.3d at 392 [An “EIR is a document of

“accountability” allowing the public to “know the basis on which ... [public] officials either approve or reject environmentally significant action.”.) For the reasons above, increased impacts from development in the Reserve Area as a result of the Project are a reasonably foreseeable consequence of the Project and *must* be evaluated. (CEQA Guidelines § 15064(d)(3); *Union of Medical Marijuana Patients*, 7 Cal.5th at 1197 [“[A] ‘reasonably foreseeable’ indirect physical change is one that the activity is capable, at least in theory, of causing”].) The DEIR’s failure to consider several major environmental impacts from development in the Reserve Area as a result of the Resolution is a fundamental flaw and renders the DEIR essentially useless as a disclosure document, in violation of CEQA. (*Friant Ranch*, 6 Cal.5th at 521.)

V. PROJECT V. PROGRAM EIR DEFICIENCIES

A. The Project-level analysis falls short of applicable standards.

Here, the EIR “is intended to be a project-level analysis of the Specific Plan area where there is sufficient design detail and access to property for detailed analysis, and as a program level analysis for the balance of the Project Area.” (2.0-10.) The EIR states that the following chapters analyze the Specific Plan area in project-level detail: Biological Resources, Cultural Resources, Hydrology/Water Quality, Air Quality, Greenhouse Gases and Climate Change, Noise, Population and Housing, Transportation and Circulation, and Utilities. (1.0-2.)

The EIR’s project-level analysis of these impacts falls short of the level of in-depth, site-specific considerations required by CEQA standards applicable to project-level review. The analysis and mitigation considered in each of these impact areas is deficient, unsupported, and in violation of CEQA, as discussed throughout this letter.

Moreover, with the exception of the above-quoted sentence, the EIR fails to clearly delineate which issues are discussed in project-level detail in the impact chapters themselves. This gives rise to critical inadequacies that render the EIR invalid for purposes of tiering future review, as the public is denied the opportunity to meaningfully discern between which issues will or will not be analyzed in depth in future environmental review. For these reasons, the project-level analysis is inadequate and in violation of CEQA.

1. The EIR prepares program-level analysis where there is sufficient detail to prepare project-level analysis, thereby violating CEQA’s prohibition on deferred analysis.

As discussed, the EIR’s project level analysis of the impacts of Specific Plan-area development to the above-cited impact categories is inadequate to meet the standards of project-level analysis under CEQA. This is not due to a lack of available information and violates the City’s duty under CEQA to prepare project-level analysis where sufficient information is available to do so.

Analysis of a significant environmental impact may not be deferred in a program-level EIR if it is a reasonably foreseeable consequence of the proposed project, and the lead agency has “sufficient reliable data to permit preparation of a meaningful and accurate report on the impact.” (14 Cal Code Regs §15152(b); *Los Angeles Unified Sch. Dist. v City of Los Angeles* (1997) 58 CA4th 1019, 1028.) For example, analysis of future water sources to supply

development under community plans and specific plans, where development would be built out over several decades, and analysis of the environmental impacts of exploiting those water sources, may not be deferred for later analysis. (*Vineyard Area Citizens for Responsible Growth v City of Rancho Cordova* (2007) 40 C4th 412, 431; *Stanislaus Natural Heritage Project v County of Stanislaus* (1996) 48 CA4th 182.)

The lead agency has an affirmative duty to make reasonable forecasts based on the information available. (14 Cal Code Regs. § 15144.) If a precise technical analysis of an environmental impact is not practical, the agency must make a reasonable effort to pursue a less exacting analysis. (*Citizens to Preserve the Ojai v County of Ventura* (1985) 176 CA3d 421, 432.) An EIR may base its forecasts on reasonable assumptions, such as the assumption that the project will be developed in a way that conforms to applicable legal requirements. (*State Water Resources Control Bd. Cases* (2006) 136 CA4th 674, 797; *Citizens for a Sustainable Treasure Island v City & County of San Francisco* (2014) 227 CA4th 1036, 1067.)

Here, to the extent “the component of the proposed Project that includes a Specific Plan includes a very high level of design detail for that portion of the proposed Project,” the City has an affirmative duty to make reasonable forecasts based on the information available for every category of environmental impacts. (14 Cal Code Regs. § 15144.) For these reasons, the EIR’s program level review of the Specific Plan area, where enough information is available to analyze other environmental impacts at a project-specific level, violates CEQA and renders the EIR deficient as both a program-level and project-level environmental review document.

B. The Program-level analysis falls short of applicable standards.

1. Program-level analysis fails to disclose reasonably available information, leading to deferral of analysis in violation of CEQA.

The program-level analysis fails to meet CEQA standards for program-level analysis. A lead agency preparing a program EIR must disclose what it reasonably can, and any determination that it is not feasible to provide specific information must be supported by substantial evidence. (*Cleveland Nat'l Forest Found. v San Diego Ass'n of Gov'ts* (2017) 17 CA5th 413, 426, 440 [rejecting air quality baseline discussion and impact analysis because substantial evidence did not support agency decision to omit more detailed analysis]; *Center for Biological Diversity v Department of Conserv.* (2019) 36 CA5th 210, 231 [citing *Sierra Club v County of Fresno* (2018) 6 C5th 502, 516, and stating that a program EIR must include enough detail “to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project”].) Here, the EIR regularly defers required analysis and omits specific information related to Project impacts without citing to substantial evidence, as required by CEQA, to support the infeasibility of conducting appropriate program-level review. These examples of inadequate detail and deferred analysis are cited throughout this letter. For these reasons, the EIR’s deficient program-level analysis violates CEQA.

2. Program-level analysis is insufficient to support the City’s intended tiering of future review.

A program EIR that is designed to allow approval activities within the program without the need for further CEQA review should provide description of the activities that would implement the program and a specific and comprehensive evaluation of the program's foreseeable environmental impacts, so that later activities can be approved on the basis of the program EIR. (14 Cal Code Regs §15168(c)(1)–(2), (5); *Center for Biological Diversity v Department of Fish & Wildlife* (2015) 234 CA4th 214, 237.) The EIR blatantly admits the City's intent to circumvent future environmental review for site-specific development within the Specific Plan area. (1.0-3, "The City's expectation, at least at present, is that the checklist will conclude that most, or all, components of the Specific Plan can be developed with no new analysis of environmental effects given that there is a high level of resolution with regard to the project details that have been analyzed in this program EIR.")

The glaring deficiencies cited throughout this letter demonstrate the lack of the required specific and comprehensive evaluation of the program's foreseeable environmental impacts. Without this analysis, later activities cannot be approved on the basis of the Program EIR.

VI. INADEQUATE ALTERNATIVES

A. The Project Objectives are Improperly Narrow.

CEQA requires that an EIR contain a "statement of the objectives sought by the proposed project." Under CEQA, "[a] clearly written statement of objectives will help the Lead Agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations." CEQA Guidelines, § 15124(b). Objectives must be constructed broadly enough to leave room for consideration of alternatives.

Here, the EIR provides only two Objectives, stating that "[t]he underlying purpose of the proposed Project is the expansion of the City of Riverbank Sphere of Influence, and approval and subsequent implementation of the Specific Plan as a means of increasing the housing supply in Stanislaus County and the State of California." The list of Specific Plan objectives cannot be used as a substitute for Project Objectives, because the Project is not limited to the Specific Plan alone. The two Project Objectives are impermissibly specific, thus ensuring all proposed alternatives will be infeasible. As only the exact project proposed could possibly meet a majority of the stated objectives, the EIR cannot conduct a meaningful analysis of an appropriate range of alternatives to the Project. An EIR defeats the fundamental purpose of CEQA, informed decision-making, when only the project as proposed could meet the stated project objectives.

For example, one of the two Project objectives provided is simply a restatement of the Project itself: "the expansion of the City of Riverbank Sphere of Influence." Accordingly, any alternative without a sphere of influence expansion could be easily dispatched as infeasible without any further analysis. The other objective similarly restates the Project itself ("approval and subsequent implementation of the Specific Plan") and combines the Project with an objective so broad that any project could satisfy it; e.g., "increasing the housing supply in Stanislaus County and the State of California." Moreover, because the EIR uses the Specific Plan Objectives as a substitute for the Project Objectives, the EIR's comparative evaluation of the alternatives' ability

to satisfy project objectives is largely a discussion of how closely each alternative would conform to the Specific Plan. (See, e.g., 5.0-50 to 5.0-51.) Because the Objectives here are so narrow, they render the EIR's evaluation of alternatives meaningless.

B. The EIR Analyzes an Inadequate Range of Alternatives and Thus Fails to Identify Alternatives that Reduce Impacts.

A further fundamental CEQA deficiency is the failure to consider feasible alternatives that would reduce or avoid the Project's significant impacts. The failure to identify an alternative that avoids the conversion of hundreds of acres of prime farmland is not supported by substantial evidence and is a violation of CEQA.

An EIR must describe a range of alternatives to the proposed project, or to its location, which would feasibly attain the project's basic objectives while avoiding or substantially lessening the project's significant impacts. (Pub. Res. Code § 21100(b)(4); CEQA Guidelines, § 15126.6(a).) A proper analysis of alternatives is essential for the City to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. (Pub. Res. Code, § 21002; CEQA Guidelines, §§ 15002(a)(3), 15021(a)(2), 15126.6(a); *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 443-45.) Here, the EIR's discussion of alternatives fails to meet these standards.

The primary flaw in the EIR's alternatives analysis is the failure to identify and consider a reasonable range of alternatives that reduce project impacts, as required under CEQA. CEQA Guidelines, § 15126.6(c); *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 566. Under CEQA, the discussion of alternatives must focus on alternatives capable of avoiding or substantially lessening the adverse environmental effects of a project, "even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." (CEQA Guidelines, § 15126.6(b).) The alternatives to be discussed need not be identical to, or even substantially similar to the project as originally described by the applicant, so long as they can be accomplished within a reasonable period of time, taking into account economic, environmental, social, and technological factors. (*Citizens of Goleta Valley*, 52 Cal.3d. at 574.)

Here, although the EIR purports to analyze four different alternatives, including a "no project" alternative, the selection of alternatives does not meet CEQA standards for consideration of a reasonable range of alternatives to avoid or lessen the significant impacts of the Project. With the exception of the No-Project alternative, none of the alternatives presented would be capable of avoiding or substantially lessening the adverse environmental effects of a project. The Increased Density Alternative, for example, "would have equal impacts when compared to the proposed Project." (5.0-27.)

Moreover, the EIR contains no discussion of critically important and obvious alternatives. For example, the EIR does not include an alternative which requires the City to pursue infill housing development within urbanized areas of the City, thus localizing impacts and reducing detrimental effects on agricultural and biological resources. Instead, the City's alternatives analysis begins by stating that development within the city limits or sphere of influence is

infeasible because the City's review of such land revealed there are "numerous approved projects and proposed projects that are currently under review."

The City dismissed consideration of infill development within existing city limits as infeasible on the basis of pending proposals for development in such areas. The City improperly concluded that "there are no feasible alternative locations" "with the appropriate size and characteristics that would meet the basic Project objectives." The conclusory, hypothetical discussion of infill development provides no meaningful assessment of the capability of existing land within the City's limits to support such housing and concludes such an alternative would be infeasible based on a cursory, unsupported land review and improperly narrow project objectives. (*San Joaquin Raptor/Wildlife Rescue Ctr. v County of Stanislaus* (1994) 27 CA4th 713, 736 [EIR referred to alternative sites but did not identify any, discuss their attributes, or indicate why they would or would not be feasible].)

By modifying the Project to focus on infill housing development within the City's current boundaries, the transportation, air quality, GHG and noise burden undoubtedly would be dramatically reduced and/or eliminated. The City must revise the Alternatives section in the EIR and then recirculate the DEIR for public review and comment. CEQA's "substantive mandate" requires that agencies deny approval of projects with significant environmental effects if there are feasible alternatives "that can substantially lessen or avoid those effects." *County of San Diego v. Grossmont-Cuyamaca Community College District* (2006) 141 Cal.App.4th 86, 98. Without a properly constructed and analyzed Alternatives section, the decision-makers and public cannot be accurately informed.

Moreover, the analysis of the four alternatives is fundamentally inadequate. The discussion fails to explain in meaningful detail the comparative impacts of each alternative on agricultural resources, despite this impact being among the most significant because of the definitive conversion of hundreds of acres of prime farmland to urban uses. The information provided in this analysis is insufficient to allow an informed comparison of the impacts of the project with those of the alternatives provided. (*Kings County Farm Bureau v City of Hanford* (1990) 221 CA3d 692, 733 [absence of comparative data precluded meaningful consideration of alternatives].) The range of alternatives selected reinforce the idea that the City of Riverbank has already decided this impact to agricultural resources is not worth avoiding, as "the entire Project site would still be converted from agricultural use" under all but the No-Project Alternative." (5.0-18; 5.0-28; 5.0-36.) The unmitigated impact to agricultural resources demonstrates that the range of alternatives considered is manifestly unreasonable in violation of CEQA.

Finally, it is not clear based on the EIR that the Project's selection of the Lower Density Alternative" is actually the "environmentally superior alternative." In fact, the No Reserve Alternative would be the environmentally superior alternative, had the analysis of this impact in the EIR not been fundamentally skewed and misleading. There is no meaningful discussion of the differential impacts of sphere of influence expansion under any of the alternatives. The Project's expansion of the Sphere of Influence is premised on the assumption that the land would eventually be developed and become part of the City of Riverbank. (5.0-46.) Despite this fundamental assumption, the EIR completely fails to make any reasonable effort to quantify the foreseeable impacts of development of the Reserve Area.

This deliberate omission of Reserve Area impacts continues throughout the discussion of the alternatives analysis, culminating in the blatantly false conclusion that “[t]he No Reserve Alternative would result in equal impacts in all areas and for all impacts, except for one Land Use related impact statement.” The scant evidence regarding the projected impact to the Reserve Area of the proposed Sphere of Influence expansion, as discussed above in Section IV.A, suggests that the No-Reserve Alternative would have the least significant environmental impacts while still allowing the Specific Plan to be built.

In summary, the range of alternatives considered in the EIR is manifestly unreasonable, and the alternatives analysis that is included is fundamentally inadequate. For these reasons, the EIR’s alternatives analysis violates CEQA.

VII. RECIRCULATION IS REQUIRED DUE TO FUNDAMENTAL FLAWS IN DOCUMENT

An agency must recirculate an EIR when “significant new information” is added to the EIR after the expiration of the public comment period but before certification. The EIR must be recirculated if the significance of the changes thereto would deprive the public of a meaningful opportunity to comment on either a substantial adverse environmental impact of the project or a feasible project alternative or mitigation measure that would clearly reduce the impact and that is not going to be implemented. (Pub Res Code §21092.1; 14 Cal Code Regs §15088.5.) The purpose of recirculation is to give the public and other agencies an opportunity to evaluate the new data and the validity of conclusions drawn from it. (*Spring Valley Lake Ass’n v City of Victorville* (2016) 248 CA4th 91, 108; *Silverado Modjeska Recreation & Park Dist. v County of Orange* (2011) 197 CA4th 282, 305; *Save Our Peninsula Comm. v Monterey County Bd. of Supervisors* (2001) 87 CA4th 99, 131; *Sutter Sensible Planning, Inc. v Board of Supervisors* (1981) 122 CA3d 813, 822.)

“Significant new information” requiring recirculation includes a disclosure showing that (1) the identification of new significant impacts; (2) a substantial increase in the severity of impacts; (3) the identification of a new feasible project alternative or mitigation measure that could clearly lessen the project’s significant impacts, but the project’s proponent declines to adopt it, and (4) the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (Cal. Code Regs. tit. 14 § 15088.5(a); *Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043).

Here, the draft EIR was so fundamentally and basically inadequate and conclusory in nature that the public was denied the opportunity to meaningfully review and comment on the Project’s impacts. The numerous and material defects discussed above, render the EIR legally inadequate by the wholesale omission of information discussed in this letter. The required analysis of this information will show that there are new and more severe significant impacts environmental impacts of the Project. (See, e.g., *Western Placer Citizens for an Agric. & Rural Env’t v County of Placer* (2006) 144 CA4th 890, 899.) As the draft EIR is legally inadequate, any subsequent analysis to remedy the inadequacy must be recirculated and made available for public review. (*Sierra Watch v County of Placer* (2021) 69 CA5th 86, 103.)

Recirculation is also required because the Draft EIR ignores significant environmental impacts throughout the Project Area across numerous impact areas. A revised EIR that

addresses these impacts would disclose new environmental impacts that would result either from the project itself, or from a new mitigation measure proposed to be implemented, and new mitigation measures.

To that end, a revised, legally sufficient environmental review of the Project Area would disclose a substantial increase in the severity of an environmental impact unless mitigation measures are adopted to reduce the impact to a level of insignificance, including but not limited to those impacts of the Project on agricultural resources, biological resources, transportation and circulation, water resources, and land use and population. The revised EIR would need to be recirculated to allow the public a meaningful opportunity to comment on the true scale of environmental impacts.

As this letter points out, the alternatives and mitigation measures considered in the EIR are ineffective and inadequate. The revised EIR would need to consider feasible project alternatives and mitigation measures considerably different from those previously analyzed in order to bring the analysis to a level of legal sufficiency. This must be disclosed in a recirculated Draft EIR.

Finally, the EIR's cumulative impact analysis is fundamentally flawed for the same reasons discussed herein that render the rest of the EIR in violation of CEQA, including but not limited to the distorted Project Description, the deferred impact analysis, and the ineffective and incomplete analysis of mitigation thereto. A revised, adequate cumulative impact analysis would necessitate recirculation of a Draft EIR pursuant to CEQA.

Thus, in order to cure the numerous defects described above, the new EIR would necessarily trigger CEQA's recirculation requirement. Failure to recirculate the new EIR would deprive the public of a meaningful opportunity to comment on the Project and thus violate CEQA.

Sincerely,



Jessica Hill
Director of Community and Economic Development



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March 6, 2024

Sent Via Email to: riverwalk@riverbank.org

Miguel Galvez, Contract City Planner
Development Services Department
6707 3rd Street
Riverbank, CA 95367

Subject: Environmental Referral – City of Riverbank – River Walk Specific Plan – Notice of Availability of Draft Environmental Impact Report (DEIR)

Dear Mr. Galvez:

The Stanislaus County Environmental Review Committee (ERC) is currently reviewing the above-referenced project with the intention to provide a formal response by end of the public review period on March 18, 2024. Chapter 7.0 of the DEIR references a transportation report, *KD Anderson & Associates. 2022. Riverwalk Specific Plan EIR Transportation Impact Analysis for Riverbank, CA. Prepared April 6, 2022.* This report was not circulated with the DEIR, and it is requested that it be circulated for review. The ERC believes it would be appropriate to extend the public comment period to allow for adequate review time by interested parties.

Thank you for your consideration.

Sincerely,

Tina M. Rocha
Assistant Executive Officer

Cc: Angela Freitas, Director, Planning and Community Development
David Leamon, Director, Public Works Department

Miguel Galvez

From: Patrick Cavanah <cavanahp@stancounty.com>
Sent: Monday, May 6, 2024 3:45 PM
To: River Walk
Cc: Marisela Garcia; Jody Hayes; Thomas Boze; Angela Freitas; David Leamon; Robert Kostlivy; Linda Pinfeld; Tina Rocha
Subject: River Walk Specific Plan DEIR Comments
Attachments: 05.06.24_City of Rivrbank River Walk Specific Plan_ ERC Comment Letter.pdf

Good Afternoon,

On behalf of Stanislaus County, please accept the attached comment letter regarding the River Walk Specific Plan Draft Environmental Impact Report.

Thank you,
Patrick

Patrick Cavanah
Senior Management Consultant
Stanislaus County Chief Executive Office
Mobile: 209-652-1975 | Email: cavanahp@stancounty.com
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May 6, 2024

Sent Via Email to: riverwalk@riverbank.org
Miguel Galvez, Contract City Planner
Development Services Department
6707 3rd Street, Suite A
Riverbank, CA 95367

SUBJECT: ENVIRONMENTAL REFERRAL – CITY OF RIVERBANK – RIVER WALK SPECIFIC PLAN – NOTICE OF AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)

Mr. Galvez:

This letter is to provide Stanislaus County's formal response to the above-referenced project which is understood to be a request involving the expansion of Riverbank's Sphere of Influence (SOI) by approximately 1,522 acres (the Project Area), annexation of approximately 997 acres (the Specific Plan area) into the Riverbank City limits, extension of infrastructure to annexed area to serve development, and the subsequent development of the annexation area for: Low-Density Residential, Medium-Density Residential, High-Density Residential, Mixed-Use, and Parks/Recreation, including all infrastructure and utilities to serve the development. To enable the development of the proposed land uses and zoning described for the Specific Plan area, the proposed project includes a request for a general plan amendment, specific plan adoption, pre-zoning, and annexation. All other lands that are included within the SOI expansion area, but outside the Specific Plan area, are not proposed for development at this time, and thus, are not included in the specific plan adoption, pre-zoning, or annexation request.

The entirety of the project site area is located within the City of Riverbank's General Plan area and the majority of the unincorporated lands within the project site area have a Stanislaus County General Plan land use designation of Agriculture and zoning designation of General Agriculture (A-2); five acres on the southeast corner of the site have a Stanislaus County General Plan land use designation of Urban Transition and zoning designation of General Agriculture (A-2).

On July 5, 2021, the County submitted comments in response to the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the above-referenced project. While it is the County's understanding that the comments were received by the City of Riverbank within the specified public comment period, the comments were never provided to the project consultant and, as such, were not taken into consideration in the preparation of the Draft EIR (DEIR). The County's July 5, 2021, comments are included as an attachment to this response and are provided in support of these comments to the DEIR (Attachment 1).

The City of Riverbank's 2005-2025 General Plan designates the eastern portion the Project Area as "Reserve" and "Agricultural Resources Conservation" areas. The City's General Plan identifies the "Reserve" designation as intended for land that has not yet been planned for a specific urban, agricultural, or resource use. The City's General Plan further specifies that the "Reserve" designation does not denote any specific land use and is utilized as an overlay designation that specifies additional requirements before the area is eligible for consideration for urban development. The City's General Plan contemplates that before making "Reserve" areas eligible for consideration for urban development, the rest of the Riverbank Planning Area will be sufficiently built out such that the "Reserve" area is needed to meet the demand for urban development or the proposal includes a desired land use unique to the Planning Area that cannot be accommodated on lands within the City limits or portions of the Planning Area without the "Reserve" overlay designation. The City's General Plan identifies the "Agricultural Resources Conservation Area" as providing for ongoing operations and land uses compatible with ongoing agricultural operations, with the designation tending to occur in areas with high-quality soils (for cultivation purposes). The Specific Plan proposes development on 5.34 acres of the 520.81 acres currently designated as "Agricultural Resources Conservation Area" and approximately 305 acres designated as "Reserve" area. Outside the Specific Plan area, the project proposes to redesignate the remaining approximately 515 acres of "Agricultural Resources Conservation Area" to "Reserve" area, providing for approximately 519.22 acres designated "Reserve" area within the Project Area.

The DEIR generally characterizes the "Reserve" designation in the same manner as the City's General Plan, which is that it is intended for land not yet planned for a specific land use and serves as an overlay designation specifying additional requirements needing to be considered for urban development of the area. The DEIR further specifies that, within the Specific Plan area, the "Reserve" designation is an area, approximately 60.17 acres, with an existing cherry orchard and is intended to remain under orchard use for the foreseeable future; however, as an alternative, the existing orchard may be utilized as shallow flood storage to contain and infiltrate stormwater runoff from the project.

Based on the above understanding of the project, County staff have identified the following concerns with regards to the DEIR:

Cumulative Impacts

The County's response to the project's NOP included concerns with use of the "Reserve" designation due to the lack of a specific land use being denoted for the area. Without a use or uses identified, compliance with CEQA cannot be achieved. An impact cannot be studied or mitigated without first knowing what the proposed land use could be and what potential impacts may occur as a result of those land uses. An environmental document should study the project's effects on the environment in connection with past projects, current projects, and potential future projects to gain a complete understanding of the cumulative effects. A cumulative impact analysis cannot be achieved if a large part of the Project Area acreage is excluded from the project's environmental analysis.

The DEIR's Cumulative Setting identifies growth projections (at the city, county, and state level) used in the City's 2016 Housing Element and numerous probable future projects within the City's existing jurisdiction to consider cumulative growth, however; no projects or potential growth within the area designated "Reserve" is identified. The DEIR states that "development of the Specific Plan Area to urban uses has been anticipated by the City since the approval of the General Plan

and certification of the General Plan EIR". Given that the Specific Plan Area includes most of the lands identified in the General Plan as "Reserve", it seems the City's redesignation of lands from an "Agricultural Resource Conservation Area" to "Reserve" as part of this project is also being done in anticipation of urban uses being developed. Thus, the cumulative impact analysis for this project must consider the probable and anticipated level of urban development planned for the "Reserve" area or the area should be left under its current designation and outside of the City's SOI – as partially reflected in the DEIR's No Reserve Alternative, which would eliminate both the "Reserve" and "Agricultural Resource Conservation Area" designated lands from the City's General Plan in addition to the proposed SOI expansion beyond the Specific Plan area.

Agricultural Resources

As reflected in the DEIR, the majority of the land within the Project Area, approximately 919.32 acres, is designated Prime Farmland; including approximately 661.33 acres within the Specific Plan area, and approximately 257.99 acres outside the Specific Plan area, but within the Project Area. Prime farmlands are also located west, southwest, and south of the Project Area. The County recognizes and supports the City's Sustainable Agricultural Strategy requiring the permanent preservation of similar quality farmland (of equal or better soil, located within Stanislaus County, and not previously encumbered by a conservation easement of any nature) at a 1:1 ratio of the gross amount of farmland converted to the amount of farmland preserved.

The County recognizes and supports the City's General Plan Policy CONS-3.2 calling for the use of 300-foot buffers to protect the feasibility of ongoing agricultural activities on nearby land. In assessing the project's use of buffers to mitigate impacts to agricultural resources, it would be helpful to have cross sections of the buffers incorporated into the Specific Plan so there is a clear representation of the types of greenway/open space areas that is going to be provided and to illustrate the elevational differences presented by the bluff areas. It is unclear if the 300-foot buffer is being met by the riverwalk trail and roadway along the western edge of Villages J, H, and F. It is also unclear why having no buffers between Village P and the adjacent agricultural property (orchard) located immediately to the west and the MU-6 designated areas and the adjoining "Reserve" area in agricultural production is consistent with the buffer policies requirement that a buffer may be reduced where a project applicant demonstrates that a narrower buffer (or in this case the lack of a buffer) would protect the feasibility of ongoing agricultural activities on nearby lands and reduce the effects of noise, dust and the application of agricultural chemicals on residential development.

While the DEIR is correct in that the intent of a County's Right-to-Farm Ordinance is to reduce the occurrence of conflict between nonagricultural and agricultural land uses, it is not a sufficient tool for mitigating the impact and every effort should be made to mitigate through incorporation of buffers and other design tools that separate out incompatible uses.

Land Use

The DEIR's Land Use, Population, and Housing assessment should include the County General Plan's Land Use Element Goal Five and Agricultural Element Goal Two/Objectives 2.2 and 2.3, as they relate to city general plan boundaries, SOI's, and the need to minimize impacts to adjacent agricultural land as result of growth within cities. While the County recognizes the desire of cities to grow and prosper and, by policy, does not oppose reasonable requests consistent with city and county agreements to expand, the County does seek to provide that resulting growth minimize impacts to adjacent agricultural lands. In seeking to minimize impacts to adjacent agricultural

lands, the County continues to: urge LAFCO to strengthen its policies, standards, and procedures for evaluating proposed annexations of agricultural land and proposed expansions of SOI's onto agricultural lands; review LAFCO referrals to ensure proposed projects are consistent with the County General Plan's policies; encourage LAFCO to use physical features such as roads and irrigation laterals as boundaries for SOI expansions; and to encourage LAFCO to consider buffer guidelines adopted by the County when cities propose to expand their boundaries.

On May 10, 2016, the Stanislaus County Board of Supervisors took action to approve the findings, in accordance with Government Code Section 56425, that the City of Riverbank's Sphere of Influence (SOI) expansion consisting of 1,479 acres was logical and orderly. During City and County discussions in 2016, the County expressed the expectation that the City adequately address traffic mitigation and impacts to area agricultural operations associated with any future annexation and/or development with the proposed SOI expansion area. The City acknowledged the County's role in reviewing any future environmental documents associated with annexation and/or development. With the understanding that future annexation and/or development will need to mitigate, and that there will be an opportunity for the County to review mitigation for adequacy, and with General Plan Policy and tax sharing agreement in place, County staff agreed that the City's SOI expansion was both orderly and logical. Since 2016, the City has annexed 400 acres, less than a third of the expansion area and, as such, any further expansion of the City's SOI appears premature, especially given the City has not identified the land uses to be considered for development in the area proposed to be redesignated to "Reserve" by this latest project.

The County looks forward to meeting with the City of Riverbank to discuss the City's proposed SOI expansion as it relates to this latest project. The County will be looking for similar commitments from the City to adequately mitigate impacts to the unincorporated area.

The County's response to the project's NOP raised concerns with this project creating a new County Island comprised of the Park Ridge/River Heights neighborhood. The DEIR provides an analysis of LAFCO policies relating to the creation of islands, Policy 17, Island Annexations, of the General Powers and Policy Guidelines document. The DEIR expresses the City's position that it does not appear that the 58-acre community (the Park Ridge/River Heights neighborhood) meets the definition of island, potential island, or pocket; citing that the proposed annexation would leave approximately 65% of the area surrounded by the city limits, while approximately 35% would remain surrounded by unincorporated lands. Given that the 35% is along the Stanislaus River, with the unincorporated area being the jurisdiction of San Joaquin County on the northern side of the river, the County believes that the neighborhood should not be excluded from the annexation of the Specific Plan area. Exclusion of the neighborhood will create an area of unincorporated land that is physically separated from any other unincorporated area.

Impact 3.10-1 of the DEIR's Land Use, Population, and Housing assessment determines the project's impact in physically dividing an established community to be less than significant; however, the assessment does not consider the impacts to the ParkRidge/River Heights neighborhood if it is not included in the annexation and remains as an unincorporated island. The Specific Plan turns its back on the existing neighborhood, by creating an island with no direct connection to the new community, including no connection to the riverwalk trail or the buffer/greenway/open space – Riverpark area. Thus, the project will isolate the neighborhood from the City of Riverbank amenities and from any unincorporated areas.

The County's response to the project's NOP raised concerns with the proximity of the proposed residential development to the Modesto Rifle Club (APN: 074-002-007), a legal-nonconforming

use, proposed to remain in the unincorporated area, within the Project area but outside of the Specific Plan area. Impact 3.11-4 of the DEIR's Noise assessment determines the shooting range noise at new sensitive receptors to be significant and unavoidable. The DEIR identifies two mitigation measures that could have the potential to reduce the impact to a level of less than significant, however, the DEIR correctly recognizes the infeasibility of Mitigation Measure 3.11-5 requiring improvements on the Modesto Rifle Club's property, at the project proponent's own expense. Due to there being no agreement between the Modesto Rifle Club and the project proponent in place at this time, it may not be appropriate for the DEIR to include the improvements as an actual mitigation measure. If an agreement were to be reached, it needs to consider the need for land use entitlements and permits to be obtained from the County to modify the facility. It is unclear from the DEIR if any consideration has been given to requiring alternative building construction methods and/or window types/placement as a means of reducing the noise impacts or requiring notices of the potential noise impacts to be provided to impacted home buyers and/or renters of residential units.

Hydrology, Water Quality, and Utilities

As the Modesto Subbasin experiences overdraft conditions due to agricultural demand, any amount of additional pumping and reduced recharge represents a depletion to the water supply. While a discussion is included in the cumulative impacts section, the DEIR did not adequately include additional discussion on the cumulative effects on groundwater supply, and opportunities for aquifer recharge from runoff from impervious surfaces that should be considered during buildout and included in the DEIR.

Although the projected increased water demand from the proposed project is estimated to be a small portion of the total subbasin storage, the DEIR did not include sufficient study necessary to confirm the number of wells to be installed as part of the proposed project or to ensure that the impact of these new wells is fully understood.

Transportation and Circulation

As previously commented to the City in a March 6, 2024 letter, the project's Transportation Impact Report, referenced in Chapter 7.0 of the DEIR was not included in the public release as an appendix. The report was subsequently provided to the County via email on March 18, 2024, giving 49 calendar days of review. There are some concerns over the validity of the Report as the Transportation Impact Analysis's (TIA) footer is dated March 18, 2024, but the cover sheet is dated August 11, 2023, while the EIR's reference is to a report dated April 6, 2022. It is unclear what modifications were made between initial completion and the issued document. Additionally, the document is not stamped by a registered Traffic Engineer in the State of California.

Access to County Roads

Access to and from the Project Area from McHenry Avenue will require approval by Stanislaus County Public Works. No assumptions shall be made about allowable access to McHenry Avenue. All improvements required will be the sole responsibility of the developer, and the project appears to propose a side-street stop which would have significant impacts to public safety. A mitigation measure shall be added similar to Mitigation Measure 3.13-1, but for the intersection of McHenry Ave and Coffee Road Extension. Otherwise, it should be assumed no access will be granted along McHenry Avenue.

The DEIR and supporting documentation identify McHenry Avenue from Ladd Road to River Road as a 2-lane facility funded by regional transportation fees; however, the roadway widening project was completed in 2022. Any modifications to McHenry Avenue necessary to mitigate the impacts of the project shall be funded by the project, and any modifications to McHenry Avenue will be subject to Stanislaus County approval.

County comments to NOP were not addressed, including missing requested study locations:

- Ladd Road at Tully Road
- McHenry at Charity Way

The County would like to reiterate that the DEIR study all locations mentioned in its comments to the NOP.

Trip Generation

Vehicle Trip Generation land uses and quantities do not align with the proposed specific plan. On page 2.0-10 of the Specific Plan, it is stated that "The residential portion of the Specific Plan could include up to 13 villages that provide a location for age-restricted active adult development...". This should be stated as a matter of fact by using language such as "shall include" rather than "could include up to". The Trip Generation of the TIA is based on only 267, non age-restricted dwelling units. Additionally, Trip Generation for the TIA was based on 175 Mixed Use High Density Residential 175 dwelling units while the Specific Plan states up to 450 Mixed Use High Density Residential dwelling units.

Therefore, the proposed project should be restricted to what impacts were analyzed in the Traffic Impact Analysis or a new study should be provided and recirculated prior to the Final EIR. These quantities are listed in Table 14 of the TIA.

Traffic Safety

The project's TIA only evaluated safety impacts, including queuing, on State Facilities. The project shall evaluate its impacts to roadway safety to all facilities, including Stanislaus County, City of Modesto, and City of Riverbank facilities. The analysis for queuing used improper traffic signal timing parameters including, but not limited to, clearance intervals being too short and max green time being too low.

Reserve Area

The No Reserve Alternative is the only alternative studied for impacts, despite the DEIR stating it will have equal impacts (Table ES-1) of other alternatives. Because the reserve area is undefined, it is noted as having no impact, which is false.

Particularly, as previously noted, the 'reserve' area west of the project site that is included in the Specific Plan Area must be studied for its impacts to transportation and circulation as part of the project. The project must be able to articulate the impacts and feasibly mitigate. As there is no transportation analysis from this identified 'reserve' area in the DEIR, the area should be removed the project's boundaries altogether.

Long Term Circulation System Improvements

It is stated within the Traffic Study that the North County Corridor project will realign Claribel Road west of Oakdale Road to Coffee Road; however, the City of Riverbank, despite County objections, has approved development within this adopted alignment and the County cannot complete a roadway realignment due to this significant error.

Therefore, no assumptions should be made about a realignment of Claribel Road as Claribel Road will be terminated near Machado Parkway, unless the City of Riverbank can correct this error. No trip movement should be assumed along a realigned Claribel Road in the 2042 Scenarios.

Mitigations

The proposed mitigation measures do not mitigate the significant impacts identified or those impacts not analyzed as part of the project's TIA.

The project shall provide fair share impacts or directly mitigate all County facilities that will not warrant signalization without the development occurring in Riverbank. This includes, but is not limited to:

- Coffee Rd / Morrill Rd
- Carver Rd / Ladd Rd
- Ladd Rd / Tully Rd

In addition to the locations identified, the project shall pay its fair share for required improvements at all intersections and roadway segments not currently part of a transportation fee program to mitigate their impacts. This includes, but is not limited to:

- Intersection improvements at:
 - Coffee Road / Morrill Road
 - Coffee Road / Crawford Road
 - Coffee Road / Claribel Road
 - McHenry Ave / Stewart Ave
 - McHenry Ave / Hogue Road
 - McHenry Ave / Charity Way
 - McHenry Ave / Crawford Rd
- Roadways improvements:
 - McHenry Avenue (Kiernan Ave to San Joaquin County)
 - Coffee Road (Patterson Road to Claratina Ave)

The County requests the City of Riverbank develop a financing mechanism to fund the project's fair-share impacts to County facilities for safety and general plan conformity.

The mitigation of VMT has not been sufficiently addressed in accordance with the DEIR. The project should provide a quantitative analysis of the mitigation measures required to assess their effectiveness in reducing impacts. Alternatively, incorporating land use modifications into the project, such as Affordable Housing, could decrease the VMT, aligning with the VMT screening criteria outlined by California's Office of Planning and Research. Presently, the proposed

mitigations lack a clear scope or measurable reduction in VMT, thus failing to address the project's significant impact adequately.

Stanislaus County looks forward to working with the City of Riverbank, and the project proponents, to address the concerns with the project's DEIR raised in this response.

Thank you for your time and consideration.

Regards,



Tina M. Rocha
Assistant Executive Officer

TMR:pc

Cc: Marisela Garcia, City of Riverbank City Manager
Jody Hayes, Stanislaus County Chief Executive Officer
Thomas Boze, County Counsel
Angela Freitas, Director, Planning and Community Development
David Leamon, Director, Public Works Department
Robert Kostlivy, Director, Department of Environmental Resources
Linda Pinfold, Agricultural Commissioner

Attachments

1. July 5, 2021 - Notice of Preparation County Comment Letter
2. March 6, 2024 – Request of Traffic Impact Analysis Letter

June 29, 2021

Donna Kenney, Planning and Building Manager
City of Riverbank
6707 3rd Street
Riverbank, CA 95367

CITY OF RIVERBANK
MAY 16 2024
DEVELOPMENT SERVICES

**SUBJECT: NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT
FOR THE RIVER WALK SPECIFIC PLAN**

Dear Ms. Kenney:

Thank you for the opportunity to review the Notice of Preparation of an Environmental Impact Report (EIR) for the River Walk Specific Plan. As Lead Agency, the City of Riverbank is responsible for considering the effects, both individual and collective, of all activities involved in the project (Public Resources Code §21000 et seq). LAFCO, as a Responsible Agency, will utilize the CEQA documents prepared by the City in reviewing the proposed sphere of influence expansion and annexation.

The project proposes to expand the City's Sphere of Influence by 1,535 acres and annex approximately 1,000 acres. The following comments are provided for the City's consideration:

Sphere of Influence Policies

Stanislaus LAFCO's policies describe a Sphere of Influence as "the area around a local agency within which territory is eligible for annexation and the extension of urban services within a twenty-year period." Stanislaus LAFCO also adopts a Primary Area within the Sphere of Influence, representing the City's short-term growth area. Lands within the Primary Area are eligible for annexation and extension of urban services within a zero to ten-year period. Territory between an adopted Primary Area and Sphere of Influence is considered a transition area, anticipated to need services within ten to twenty years.

Consistency with these timeframes are a concern, as LAFCO recently approved an expansion of the City of Riverbank's Sphere of Influence in 2016, adding approximately 1,479 acres intended to accommodate the City's growth over the next 20 years. The City subsequently annexed approximately 400 acres of this area in 2019 for residential and commercial uses (known as Crossroads West).

In addition to the timeframes above, State law and locally-adopted LAFCO policies contain numerous provisions that are intended to prevent sprawl and encourage logical growth when considering Sphere expansions. The EIR should include a discussion regarding these policies, including those highlighted below:

- Amendment proposals involving Sphere expansion which contain prime agricultural land will not be approved by LAFCO if there is sufficient alternative land available for annexation within the existing Sphere of Influence. The City's analysis should identify

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undeveloped areas already within the City limits and Sphere of Influence that could be developed with similar uses.

- Territory not in need of urban services, including open space, agriculture, non-protested, or protested and not upheld Williamson Act contracted lands, shall not be assigned to an agency's sphere of influence, unless the area's exclusion would impede the planned orderly and efficient development of this area.
- Sphere of influence boundaries shall, to the extent possible, maintain a separation between existing communities to protect open space and agricultural lands and the identity of an individual community.

As proposed, the City's Sphere of Influence would extend along the Stanislaus River to McHenry Avenue, adjacent to development in the unincorporated Del Rio community area. The EIR should also discuss how the proposal relates to overall regional planning for the area. If both the City and County's plans were developed to their extents, no separation of communities or agricultural land would remain north of Patterson and Ladd Rd in this area of Stanislaus County.

City-County Meeting Requirement

An expansion of a sphere of influence triggers a requirement for City of Riverbank representatives to meet with the County to discuss the proposed sphere and explore methods to reach agreement on its boundaries, development standards, and zoning requirements within the sphere (Government Code Section 56425b). This must occur prior to application to LAFCO for a sphere of influence modification. If an agreement is reached, LAFCO is required to give great weight to that agreement in the consideration of any proposed sphere of influence. If no agreement is reached, an application may be submitted and the Commission shall consider a sphere of influence for the City consistent with the policies adopted by the Commission.

Agricultural Resources

One of LAFCO's main charges, as put forth by the Legislature, is to protect and promote agriculture. LAFCO's policies state that development should be guided away from agricultural lands, including prime agricultural land. It appears that the majority of the 1,535-acre sphere of influence expansion area is also considered prime farmland. The EIR's analysis of impacts to agricultural lands should describe not only those lands categorized on the Department of Conservation's Important Farmland Map, but also those lands that fall within the LAFCO definition of prime agricultural land (Government Code Section 56064). The EIR should also identify a range of alternatives to the proposal, including alternatives that focus on lands already within the sphere of influence and non-prime lands.

Agricultural Preservation Policy

LAFCO's adopted Agricultural Preservation Policy will require the City to prepare a Plan for Agricultural Preservation ("Plan"). The Plan must include information regarding the proposal's direct and indirect impacts to agricultural resources, the availability of lands in the City's existing boundaries, and relevant General Plan policies related to agricultural preservation. The Plan also must specify the method or strategy proposed to minimize the loss of agricultural lands. The information provided in the Plan should be consistent with the EIR prepared by the City.

The City adopted a Sustainable Agricultural Strategy in 2016 that it used as its Plan for Agricultural Preservation for the City's current Sphere of Influence. The Plan identified many of the City's current General Plan policies, including Agricultural Resource Conservation Areas covering 1,300 acres west of the City, use of agricultural buffers, and overall policies related to infill development prior to consideration of additional annexation areas. The current proposal would remove the Agricultural Resource Conservation designation in the project area and represents a significant shift in General Plan policies, the impacts of which will need to be fully discussed and considered.

Logical Boundaries

As proposed, annexation of the River Walk Specific Plan area will leave the unincorporated Park Ridge / River Heights neighborhood surrounded by the City Limits on three sides and the County boundary on the fourth, creating an unincorporated island. LAFCO's policies and State law discourage the creation of islands or other distortion of a city's boundaries. This area currently relies on a private water system, would benefit from connection to City services, and should be included in any annexation proposal that would otherwise surround it.

Public Services

The proposal must show that the City has the necessary public services available to serve the development upon annexation, pursuant to LAFCO policies. This analysis must include detailed evidence of current service levels, sufficient sewer capacity, sufficient quantities and quality of water, financing mechanisms, as well as the means to provide adequate levels of fire and police protection. This information can also be used to prepare a "Plan for Services", as required by LAFCO Policy and State law (Government Code Section 56653). The Plan for Services shall include information on the present and future level of services and evidence that the annexing agency can at least maintain the current level of public services already provided within its boundaries.

Municipal Service Review Requirement

In accordance with Government Code Sections 56425 and 56430, when updating a Sphere of Influence, a Municipal Service Review (MSR) must also be prepared. The City's last MSR was completed in conjunction with the City's 2016 Sphere of Influence expansion and relied on water and sewer master plans from 2007. These plans should be updated to include the additional territory of the River Walk proposal.

Impacts on Special Districts

The proposed Specific Plan Area is currently within the boundaries of the Stanislaus Consolidated Fire Protection District, the Modesto Irrigation District, the Oakdale Irrigation District, and the Wendt Ranch Reclamation District. LAFCO will also consider impacts to these agencies. The Commission will deny proposals, pursuant to LAFCO policy, that would result in significant immitigable adverse effects upon other service recipients or other agencies servicing the affected area unless the approval is conditioned to avoid such impacts. The environmental analysis should identify any future annexation that will include new tax sharing agreements or assessments and include a discussion of any resulting impacts. The City is encouraged to consult with each of these districts to resolve any concerns identified prior to application to LAFCO.

Please include LAFCO on the mailing list for any future environmental referrals involving this project, as we did not receive mailed notice of the NOP. If you have any questions, please contact our office at (209) 525-7660.

Sincerely,



Sara Lytle-Pinhey
Executive Officer

cc: LAFCO Commissioners
Robert J. Taro, LAFCO Counsel

May 15, 2024

Sent by mail and e-mail to riverwalk@riverbank.org

Miguel Galvez, Contract Planner
City of Riverbank
6707 3rd St., Suite A
Riverbank, CA 95367

SUBJECT: DRAFT ENVIRONMENTAL IMPACT REPORT FOR RIVER WALK SPECIFIC PLAN

Dear Mr. Galvez:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the River Walk Specific Plan. As Lead Agency, the City of Riverbank is responsible for considering the effects, both individual and collective, of all activities involved in the project (Public Resources Code §21000 et seq). LAFCO, as a Responsible Agency, will utilize the CEQA documents prepared by the City when reviewing the proposed sphere of influence expansion and annexation of the Specific Plan area.

LAFCO previously commented on the Notice of Preparation (NOP) for this project and has reviewed the DEIR in accordance with State and locally adopted policies to discourage sprawl, preserve open space and agricultural lands, encourage the efficient provision of services and encourage the orderly development of local agencies (Government Code §56001, §56301).

The following comments are provided for the City's consideration regarding the DEIR.

Sphere of Influence Policies

Government Code §56425 defines a sphere of influence as a plan for the probable physical boundaries and service area of a local agency as determined by LAFCO. The sphere of influence is intended to be a long-term growth boundary consistent with an agency's General Plan. Stanislaus LAFCO also designates a "primary area" within the sphere of influence of cities that represents a more near-term growth area (typically zero to ten years). Only lands within the primary area are considered eligible for annexation. The sphere of influence and the primary area designation function as planning tools intended to carry out the Commission's role to promote logical and orderly development and guide timely changes of organization (annexations). Annexations within the primary area may be approved only when development is shown to be imminent.

The River Walk Specific Plan proposes a sphere of influence expansion of 1,522 acres and simultaneous annexation of 997 acres within the expansion area. The City's most recent Sphere of Influence expansion in 2016 was intended to accommodate the next 20 years of growth. The current proposal's description does not indicate how long full build-out of the Specific Plan is expected to occur, whether development will be phased, what portion is

intended to be a primary area, nor does it clearly substantiate the need for this additional territory relative to the City's current sphere of influence.

The DEIR's Project Description summarizes the proposed land uses for the project area, including the land between the proposed annexation and sphere of influence expansion. Page 2.0-1 of the DEIR states, "the remaining land within the Project Area is part of the SOI Amendment, and would be held as Reserve land for possible long-range planning at some future time." The DEIR further describes the Reserve category as "intended for land that the City has not yet planned for a specific urban, agricultural, or resource land use" (pg. 2.0-6).

The Commission has adopted numerous policies relative to spheres of influence, intended to encourage orderly growth and with the expectation that the agency has already engaged in long-range planning of these areas. The designation of this area as "Reserve" with deferred land use planning contradicts LAFCO's sphere of influence policies and specifically the following:

Territory not in need of urban services, including open space, agriculture, non-protected, or protected and not upheld Williamson Act contracted lands, shall not be assigned to an agency's sphere of influence, unless the area's exclusion would impede the planned orderly and efficient development of this area.

Further, inclusion of the Reserve area to the proposed sphere of influence can be considered growth inducing. While the DEIR finds growth inducement to be less than significant (Impact 3.10-3), inclusion of the Reserve area within the proposed sphere of influence creates an expectation of urbanization in the area as it is ultimately intended to accommodate future growth by the City.

LAFCO Staff also noted concerns during the project's Notice of Preparation (NOP) regarding consistency with the following sphere of influence policy:

Sphere of influence boundaries shall, to the extent possible, maintain a separation between existing communities to protect open space and agricultural lands and the identity of an individual community.

As proposed, the City's Sphere of Influence would extend along the Stanislaus River to McHenry Avenue, adjacent to development in the unincorporated Del Rio community area. If both the County's community plan and City's proposed Sphere of Influence were developed to their extents, no separation of communities or agricultural land would remain north of Patterson and Ladd Rd in this area of Stanislaus County. While the DEIR briefly identifies the Del Rio areas location west of the proposal, there is no discussion regarding regional planning or long-term separation between these communities.

Agricultural Resources

The majority of the proposal consists of prime farmland. The DEIR describes LAFCO, City and County policies regarding agricultural resources. Stanislaus LAFCO's adopted Agricultural Preservation Policy requires cities to prepare a Plan for Agricultural Preservation for an annexation proposal that includes a detailed analysis of the direct and indirect impacts to agricultural resources, a vacant land inventory and absorption study evaluating lands within the

existing boundaries of the jurisdiction that could be developed for the same or similar uses, existing and proposed densities, consistency with regional planning efforts, and the method or strategy proposed to minimize the loss of agricultural land. The Policy also includes findings that the Commission will make relative to the timing and scale of proposals.

Page 3.2-23 of the DEIR states that, “development of the Specific Plan area to urban uses has been anticipated by the City since approval of the General Plan and certification of the General Plan EIR,” concluding that there is a less than significant impact to conflicts with existing agricultural zoning. This statement fails to recognize that a large portion of the proposal area was previously designated on the City’s General Plan as “Agricultural Resource Conservation” and is now designated as a reserve for future urbanization.

Page 3.2-11 of the DEIR identifies six parcels in the annexation area with active Williamson Act contracts. For clarification, Williamson Act contracts are not *automatically* terminated upon annexation. Pursuant to Government Code §56738, the City must identify whether it intends to succeed to contracts that meet the criteria for termination during its adoption of a resolution of application to LAFCO. If the City intends to not succeed to qualifying contracts that were protested and upheld, the City must then record the appropriate documentation to terminate the contracts at the same time that LAFCO records the Certificate of Completion for the annexation (Government Code §51243.5(h)). Additionally, while the DEIR states that the area encumbered by Williamson Act contracts intends to continue with agricultural uses, it should also be made clear that the intent of the City to terminate these contracts means that those property owners will no longer receive any property tax incentive, regardless of whether the land remains in agricultural production.

It is noted that the City proposes Mitigation Measure 3.2-1 for the preservation of agricultural land at a 1:1 ratio and Mitigation Measure 3.2.2, requiring that the applicant prepare a Plan for Agricultural Preservation, consistent with LAFCO’s policies. The City is encouraged to retain these mitigation measures during potential approval of the environmental documents for the project.

Land Use Planning & Overall Consistency with LAFCO Policies

LAFCO’s policies encourage compact and efficient growth, with a preference for infill development on those areas already within the City limits followed by areas within the Sphere of Influence (Policies 21 & 22). Similarly, the City’s Sustainable Agricultural Strategy and General Plan policies prioritize infill development and development within the existing Sphere of Influence prior to additional expansions or conversions of areas designated Reserve.

With regards to land availability within the existing City limits and SOI, the DEIR cites the Riverbank Housing Element’s total inventory of 6,712 potential housing units being available in these areas (pg. 3.10-30). The section then reasons that, “development opportunities throughout the city limits and SOI do not provide for contiguous parcels that provide opportunities for large areas of master planned development similar to that proposed by the Specific Plan.” As cited, the prior Housing Element, dated February 2016, did not include the City’s subsequent Sphere of Influence expansion, which greatly expanded the vacant land inventory. Ultimately, the prior period’s Housing Element concluded that there was surplus of 2,300 housing units. The subsequent Sphere of Influence expansion was also intended to provide contiguous parcels for large specific/master plan areas with contiguous areas that have

not yet been developed. Considering this, the City must clearly demonstrate its need for additional acreage, consistent with its General Plan priorities and the LAFCO's policies.

Logical Boundaries

LAFCO's policies and State law discourage the creation of islands or other distortion of a city's boundaries. As noted in our NOP response, the unincorporated Park Ridge / River Heights neighborhood is currently substantially surrounded by the City Limits on two sides, in conjunction with the County boundary to the north on its third side. Annexation of the River Walk Specific Plan area will leave the unincorporated Park Ridge / River Heights entirely surrounded, creating an unincorporated island.

In accordance with its policies regarding elimination of islands and other distortions of boundaries, the Commission has historically requested that prior to skipping over an existing, contiguous neighborhood or potentially creating an island, an applicant should first attempt to include the area in its proposal.

As described, the Specific Plan area includes all those areas proposed to be annexed to the City of Riverbank. However, it is noted on numerous figures that the Specific Plan, shown synonymously with the proposed annexation area, excludes a small area within the City's existing Sphere of Influence along Cipponeri Road (APNs 074-005-010 through 013). While mentioned in the text that this area will also be included in the proposed annexation, it will also need to be accurately reflected in maps delineating such.

Public Services

The proposal must show that the City has the necessary public services available to serve the development upon annexation, pursuant to LAFCO policies. This analysis must include detailed evidence of current service levels, sufficient sewer capacity, sufficient quantities and quality of water, financing mechanisms, as well as the means to provide adequate levels of fire and police protection. This information can also be used to prepare a "Plan for Services", as required by LAFCO Policy and State law (Government Code §56653). The Plan for Services shall include information on the present and future level of services and evidence that the annexing agency can at least maintain the current level of public services already provided within its boundaries.

According to the DEIR, the existing Wastewater Treatment Plant (WWTP) currently receives approximately 1.6 million gallons per day (mgd) of wastewater. The DEIR acknowledges on page 3.14-2 that while the Regional Water Quality Control Board has permitted the plant a capacity of 7.9 mgd, the actual capacity is closer to 1.6 mgd, and the plant is nearing capacity (DEIR 3.14-2). The DEIR also states that the specific plan area is estimated to need approximately .69 mgd and that the WWTP has been "initially analyzed" for upgrades to treat 2.29 mgd to accommodate this growth. However, it is unclear if this takes also takes into consideration the ongoing growth within the Crossroads West Specific Plan how the cumulative needs will be accommodated.

Municipal Service Review Requirement

Page 3.10-33 of the DEIR states, "ultimately, LAFCO will determine whether the proposed annexation would first require an update to the Riverbank Municipal Service Review." As

previously stated in LAFCO's response to the NOP, an updated Municipal Service Review is a requirement and must be completed prior to or in conjunction with the proposed Sphere of Influence expansion.

The City's last Municipal Service Review was completed in conjunction with the City's 2016 Sphere of Influence expansion and relied on water and sewer master plans from 2007. The City has not indicated when or if these plans will be updated to include the additional territory of the River Walk proposal.

Impacts on Special Districts

The proposed Specific Plan Area is currently within the boundaries of the Stanislaus Consolidated Fire Protection District, the Modesto Irrigation District, the Oakdale Irrigation District, and the Wendt Ranch Reclamation District. LAFCO considers impacts to these districts as well as any simultaneous boundary changes that may need to occur.

As identified in LAFCO's NOP response, the Wendt Ranch Reclamation District, is located entirely within the boundary of the River Walk Specific Plan. The District was originally created in 2007 for the purpose of maintaining the 2.2-mile long levee system; however, it is unknown if maintenance activities have occurred since. The DEIR is unclear what mechanism is planned for continued levee maintenance, and what the City's intent is regarding the Wendt Ranch Reclamation District following annexation (e.g. whether the City will assume these responsibilities by creating a subsidiary district or dissolving the District).

Page 3.12-3 of the DEIR describes an expired fire services contract in 2019 involving Stanislaus Consolidated Fire Protection District. This section should be updated to reflect the current contract between the District and City of Modesto as of 2022, as it relates to the ongoing District functions.

A portion of the proposed annexation is located within the boundaries of the Oakdale Irrigation District (OID). Historically, annexations to the City of Riverbank have included simultaneous detachment from OID. LAFCO would expect the same with the current proposal and this should be included as one of the proposed actions in the project's description.

City-County Meeting Requirement

An expansion of a sphere of influence triggers a requirement for City of Riverbank representatives to meet with the County to discuss the proposed sphere and explore methods to reach agreement on its boundaries, development standards, and zoning requirements within the sphere (Government Code §56425b). This must occur prior to application to LAFCO for a sphere of influence modification. If an agreement is reached, LAFCO is required to give great weight to that agreement in the consideration of any proposed sphere of influence.

Project Alternatives

While an analysis of project alternatives need not include every possible alternative, an alternative that focuses on similar uses on lands already within the City's Sphere of Influence is a reasonable expectation to be considered in the document and is noticeably absent. Page 5.0-6 of the Alternatives section dismisses areas within the existing Sphere of Influence as not

being “a feasible alternative to for the Project applicant” with little other analysis or explanation. Further, the DEIR’s analysis comparing how each alternative satisfies project objectives assumes that the “No Project” alternative also means that no housing supply would or could be expanded elsewhere within the City’s Sphere of Influence. Additional information regarding the determination that development of these areas is infeasible is needed.

Thank you for consideration of these comments. If you have any questions, please contact our office at (209) 525-7660.

Sincerely,



Sara Lytle-Pinhey
Executive Officer

cc: LAFCO Commissioners
Shaun Wahid, LAFCO Counsel



CITY OF RIVERBANK

MAY 16 2024

DEVELOPMENT SERVICES

CHIEF EXECUTIVE OFFICE

Jody L. Hayes
Chief Executive Officer

Patrice M. Dietrich
Assistant Executive Officer

Raul L. Mendez
Assistant Executive Officer

July 5, 2021

Sent Via Email to: dkenney@riverbank.org

Donna Kenney, AICP, MCRP
Planning and Community Development Manager
City of Riverbank
Development Services Department
6707 3rd Street
Riverbank, CA 95367

**SUBJECT: ENVIRONMENTAL REFERRAL – CITY OF RIVERBANK – RIVER WALK
SPECIFIC PLAN – NOTICE OF PREPARATION OF AN ENVIRONMENTAL
IMPACT REPORT**

Ms. Kenney:

This letter is to provide Stanislaus County's formal response to the above-referenced project. Stanislaus County has reviewed the subject project and provides the following comments:

In accordance with Government Code Section 56425, the County looks forward to meeting with the City of Riverbank to discuss the City's proposed Sphere of Influence (SOI) expansion and annexation of unincorporated lands. Consequently, the below comments represent the County's response to the City's Notice of Preparation of an Environmental Impact Report (EIR) for the River Walk Specific Plan. Please include the County in any future publications or referrals for the EIR and Specific Plan.

Reserve Designation

The project proposes to designate 583 acres of land currently identified as Agricultural Resource Conservation Area on the City of Riverbank's General Plan to a Reserve designation. The referral states that the Reserve designation "is intended for land that the City has not yet planned for a specific urban or resource land use." Additionally, the project referral states that "consideration for urban development, the area would need to have a land plan developed and processed through the standard application process, including a detailed environmental analysis."

SV/ab

**ENVIRONMENTAL REFERRAL – CITY OF RIVERBANK – RIVER WALK SPECIFIC PLAN –
NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT July 5, 2021
Page 2**

The parcels identified as Reserve, consistent entirely of unincorporated land zoned for agricultural uses, the majority of which are also classified as prime agricultural farmland. Without a use or uses identified, compliance with CEQA cannot be achieved. An impact cannot be studied or mitigated without first knowing what the proposed land use could be and what potential impacts may occur as a result of those land uses. Furthermore, delaying an environmental analysis until a future period would circumvent CEQA's intent and encourage piecemeal analysis. Additionally, an environmental document should study the project's effects on the environment connection with past projects, current projects, and potential future projects to gain a complete understanding of the cumulative effects. A cumulative impact analysis cannot be achieved if the largest area of acreage is excluded from the project's environmental analysis.

Therefore, the following comments apply to both the Specific Plan as well as the Reserve designation identified outside of the Specific Plan area.

Agricultural Resources

The project area will include areas in the unincorporated County, identified as Agriculture in the County's General Plan and zoned A-2 (General Agriculture) These parcels will consist of land primarily considered to be prime farmland by the State of California's Department of Conservation Farmland Mapping and Monitoring program. The Land Use and Agricultural Elements of the County's General Plan provides for goals, policies, and implementation measures to preserve prime agricultural farmland. As the project proposes to convert agriculturally zoned land to residential, commercial and recreational uses and designate additional prime agricultural land as Reserve, the environmental document should address the following;

- Alternatives to permanent conversion of prime farmland to nonagricultural uses;
- Mitigation for unavoidable conversion of prime farmland;
- Identify implementation measures to minimize potential land use conflicts between the proposed project and adjacent unincorporated parcels that will remain zoned A-2 (General Agriculture); and
- Discussion of potential conflicts with any existing Williamson Act Contract within the project area.

Further, the project may also result in the following and as such consideration to these impacts should be assessed accordingly during the environmental analysis.

- Irreversible land use changes resulting in residential/industrial development not incidental to the commercial agricultural use of the land.
- Potential reductions in the availability or reliability of water supplies.
- Possible increased emissions of atmospheric pollutants including carbon monoxide.
- Reduced profitability of farming on surrounding farmlands resulting from increased incidences of agricultural crime including theft and vandalism.
- Reduced profitability of farming as a result of increased agricultural land prices/costs brought on by additional growth induced by the project.
- Potential of increased exposure of human population to pesticides, fertilizers, dust, noise and odors resulting from normal farming operations.

**ENVIRONMENTAL REFERRAL – CITY OF RIVERBANK – RIVER WALK SPECIFIC PLAN –
NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT July 5, 2021
Page 3**

Land Use

In 2016, the City expanded its Sphere of Influence, adding approximately 1,479 acres. At that time, the County expressed support of the expansion as it could be found to promote logical and orderly development. Since the Sphere of Influence expansion in 2016, the City has annexed less than a third of the expansion area. This new proposed growth outside the City's Sphere of Influence appears premature and does not maintain a logical land use pattern. Furthermore, the project would create a new County island (Park Ridge/River Heights neighborhood).

Additionally, the Modesto Rifle Club (APN: 074-002-007), a legal-nonconforming use, exists within the proposed Reserve designation and will be adjacent to future residential development. The environmental document should include a discussion of land use compatibility, as well as identification of any potential impacts between the two uses.

The project referral states that a large portion of the Specific Plan is intended to be an age-restricted active adult community; however, no information is provided as to the mechanism to be used to ensure the age-restriction will be in perpetuity. Unless there is a mechanism that will ensure the age-restriction in perpetuity, the environmental document should include an analysis of alternatives that do not include age-restrictions, including alternatives that may include, but are not limited to, a broader range of public service needs.

Hydrology, Water Quality, and Utilities

Portions of the Specific Plan lie within a FEMA designated "Known Flood Zone". The environmental document should study potential impacts to any existing drainage or erosion patterns and if future development would impede or redirect any flood flows.

The proposed project excludes an existing residential development (Park Ridge Estates/River Heights neighborhood) that is located within unincorporated area of Stanislaus County but within the City of Riverbank LAFCO-adopted Sphere of Influence. The existing neighborhood has an independent water system from the City of Riverbank and is served by individual septic systems. The environmental document should study impacts to the hydrological, groundwater, or soil conditions of these unincorporated communities as a result of the proposed expansion of the City of Riverbank's public water and sewer system. Groundwater impacts to the surrounding agricultural lands, including the loss of recharge areas, should also be studied.

Public Services and Recreation

The environmental document should include an analysis of potential impacts to existing capacity of law enforcement, fire, school and recreational services as a result of the proposed development within the Specific Plan area and the area designated as Reserve. To ensure additional unincorporated lands are not utilized, the analysis should also include potential locations within the Specific Plan area for additional public service and recreational facilities needed to serve the new development. Lastly, per the requirements of Government Code Section 66477.2(b), the environmental document should include a discussion on how access to the Stanislaus River will be provided as development of the Specific Plan occurs and the impacts of new residents to the County's regional parks.

**ENVIRONMENTAL REFERRAL – CITY OF RIVERBANK – RIVER WALK SPECIFIC PLAN –
NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT July 5, 2021
Page 4**

Biological Resources

The project area is adjacent to the Stanislaus River as well as other potential qualifying bodies of water, the environmental document should include an assessment of impacts to any riparian or special status species habitat within the project area.

Transportation and Circulation

- Page 14 of the NOP Description describes Patterson Road as beginning at McHenry Avenue but is unclear whether Ladd Road, which continues as a name-change west to Stoddard Rd, will be part of the transportation analysis. Impacts of the project will also need to be evaluated west of the project.
- Page 15 states that Stanislaus County is widening “northern McHenry,” but this only includes the segment from Ladd Road to the County Line. McHenry Avenue from Kiernan Avenue to Ladd Road/Patterson Road will remain 2 lanes and should be evaluated as part of the EIR. The McHenry Avenue widening between Claribel Road/Kiernan Avenue and Ladd Road/Patterson Road is not in the Stanislaus County Public Facilities Fees program, nor is it programmed for CalTrans.
- To maintain safe transportation and circulation within the County network, the following additional facilities should be evaluated for project impacts related to traffic safety and operations per the Stanislaus County General Plan:
 1. Coffee Road: Patterson Road to Claribel Road;
 2. Coffee Road: Claribel Road south to Mable Avenue;
 3. Coffee Road at Claribel Road Intersection;
 4. Ladd Road/Patterson Road at McHenry Intersection;
 5. Ladd Road at Carver Road;
 6. Ladd Road at Tully Road;
 7. McHenry Avenue: Ladd Road/Patterson Road to Kiernan Avenue
 8. McHenry Avenue at Charity Way Intersection
 9. McHenry Avenue at St Francis Avenue
 10. McHenry Avenue at River Road (San Joaquin County)

There is a significant lack of information regarding the land use and circulation plan in the areas on the west designated as Reserve. If the areas are to be included in this project with no defined land uses, they should be evaluated as a worst-case demand impact on the transportation network.

Stanislaus County appreciates the opportunity to comment on this project and looks forward to further discussion regarding the City of Riverbank’s River Walk Specific Plan proposal to ensure that a proper environmental analysis is conducted.

Thank you for your time and consideration.

**ENVIRONMENTAL REFERRAL – CITY OF RIVERBANK – RIVER WALK SPECIFIC PLAN –
NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT July 5, 2021
Page 5**

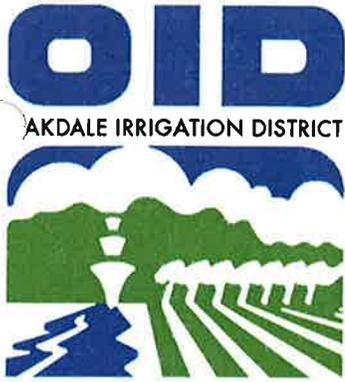
Regards,



Raul L. Mendez
Assistant Executive Officer

RLM:SM

cc: Jody Hayes, Chief Executive Officer
Thomas Boze, County Counsel
Angela Freitas, Director, Planning and Community Development
David Leamon, Director, Public Works Department
Stanislaus County Environmental Review Committee
Sean Scully, Riverbank City Manager



CITY OF RIVERBANK

MAY 16 2024

DEVELOPMENT SERVICES

May 13, 2024

Mr. Miguel Galvez
Contract City Planner
City of Riverbank
6707 3rd Street, Suite A
Riverbank, CA 95367

Re: OID Comments on City of Riverbank River Walk Specific Plan Draft EIR

Dear Mr. Galvez,

Oakdale Irrigation District (OID) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the River Walk Specific Plan and offers the following items for consideration:

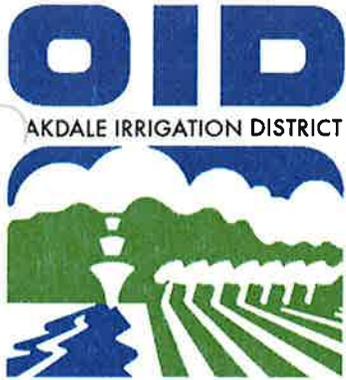
Groundwater Sustainability Plan Impacts

As noted in the DEIR, the River Walk Project (Project) Area is within the Modesto Groundwater Subbasin (Subbasin), and the Stanislaus and Tuolumne Rivers Groundwater Basin Association Groundwater Sustainability Agency (STRGBA GSA) has prepared a Groundwater Sustainability Plan (GSP) for the Subbasin in accordance with the Sustainable Groundwater Management Act (SGMA). OID, like the City of Riverbank (City), is a member agency of the STGBA GSA.

The Project as proposed would increase groundwater demand, in turn increasing the amount of groundwater use that must be reduced for the subbasin to achieve sustainable conditions. The City's estimated groundwater demand at full Project build-out as per the DEIR is 14,610 acre-feet per year, or 3.2 times the City's 2020 production of 4,452 acre-feet. In DEIR Section 3.9 it is correctly stated that "Although the Modesto Subbasin is not at risk of depleting a large percentage of its total volume of groundwater supply, the ongoing depletion due to pumping larger volumes from the groundwater basin than can be reasonably be replenished (overdraft conditions) requires mitigation to meet the Subbasin sustainability goal."

The Project is partially located in a region classified as the Non-District West (NDW) Management Area in the GSP. Management Areas within the subbasin were identified in the GSP for water accounting/budgeting and management purposes. As shown on the attached NDW Operational

SVJS

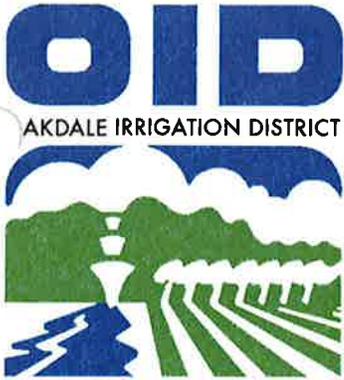


Budget slide from the 2023 Annual Report, the NDW Management Area is already on the cusp of being in a state of overdraft on an average annual basis. Additionally, the DEIR Project Description notes Modesto Irrigation District (MID) currently provides surface water supply for existing agricultural uses in the Project area and that property annexed by the City as part of the Project would no longer be served by MID. Therefore, groundwater demand in the region would increase and groundwater recharge due to applied irrigation water would be reduced thereby compounding the potential for impacts to occur.

While the GSP was submitted in 2022, it has not yet received approval from DWR. The STRGBA GSA is currently preparing an amended GSP to address items that DWR recently deemed as deficiencies. Amongst those items of concern from DWR is the feasibility of the GSA's plan to definitively arrest overdraft conditions. The GSA is currently reviewing management actions, which are likely to include demand reductions, that may need to be implemented before the 2027 water year if groundwater levels do not recover from water supply projects alone in the meantime. The DEIR states that the "sustainable yield of the Modesto Subbasin is developed by methodically reducing the groundwater demand for the net groundwater extractors in the Subbasin. The goal of this groundwater demand reduction is to reduce groundwater pumping to a level that would result in no undesirable results if continued in the long-term." The City has historically been a net groundwater extractor and if groundwater demand in the City increases further as proposed from the Project, the NDW Management area will become one as well.

The DEIR correctly characterizes the steepest groundwater level declines as occurring in the eastern Subbasin. However, contrary to what is stated in the DEIR, groundwater levels have also historically declined in the central subbasin where the City is. Historic groundwater levels in OID's Riverbank Deep Well, located within the proposed Project boundaries, is just one example of that.

Depletion of interconnected surface water (streamflow depletion) is also one of the six sustainable management criteria required to be analyzed under the SGMA to avoid undesirable results. The GSP has established a monitoring network specifically along the river boundaries in the Subbasin to track groundwater levels and estimate the amount of river flow lost to the aquifer with OID's Riverbank Deep Well being one of those representative monitoring sites. If the groundwater levels in the representative well monitoring network for streamflow depletion drop below their minimum thresholds, regardless of overdraft activity in the eastern portion of the Subbasin, undesirable results will occur as defined in the GSP. OID is therefore concerned that the Project as proposed with the installation of three new wells and increased groundwater demand at full Project build-out along the



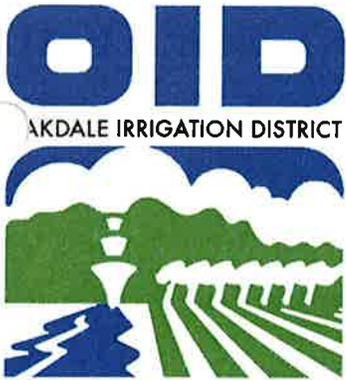
Stanislaus River as shown in figure 2.0-14 of the Project description has the potential to impact the long-term sustainability of Modesto Subbasin.

Due to the concerns noted above, OID believes the Project as proposed unquestionably has the potential to cause significant impacts to groundwater resources and further analysis is warranted. The DEIR provided City-wide estimated impacts with respect to the entire Modesto Subbasin. However, a water budget of the Project area itself was not provided. The water demand, water sources, and groundwater recharge within the Project area should be quantified under pre- and post-Project conditions. Any increase in groundwater demand or reduction in groundwater recharge should be mitigated through actions such as conjunctive use management (e.g. retaining MID irrigation water supply to new dedicated recharge detention basins) or incorporation of treated surface water to the Project area.

OID Boundary Modifications

As shown in the attached marked-up Figure 2.0-3, nine parcels at the southeast corner of the Project Area (indicated as Map Labels 51-19) are located within the OID service area boundary. Per the attached OID Resolution No. 36-82, when parcels are annexed into the City, they are automatically detached from the OID service area via LAFCO's application of the District Reorganization Act procedures. It is OID's understanding that OID will be consulted during the City's LAFCO application process to confirm there are no impacts to OID. OID will not be responsible for the cost of modifying the OID service area boundary or map submittals to LAFCO and the State Board of Equalization. Upon detachment, OID would no longer receive a portion of property taxes from the annexed area and the affected landowners would no longer be connected to OID services regardless of their parcel's connection status to the City water system. OID does not currently offer irrigation services to any parcel outside the OID boundaries without participation in the OID 10-Year Out-of-District Water Sale Program, for which the opportunity to enroll has ended. Additionally, there is an OID owned and operated agricultural deep well in that area. Please see the attached OID Site Map for reference. Upon detachment from the OID service area, the OID well and its accompanying 15' wide access easement would remain for continued use as a dedicated groundwater monitoring well.

OID's intent is to work cooperatively with the City and all landowners. To that end, should the Project proceed, we encourage active dialogue between all parties as the proposed Project progresses through either continued environmental review or Project specific improvement plans.



Should you have any additional questions or wish to discuss the content of this correspondence in more detail, please don't hesitate to contact me at (209) 840-5508.

Sincerely,

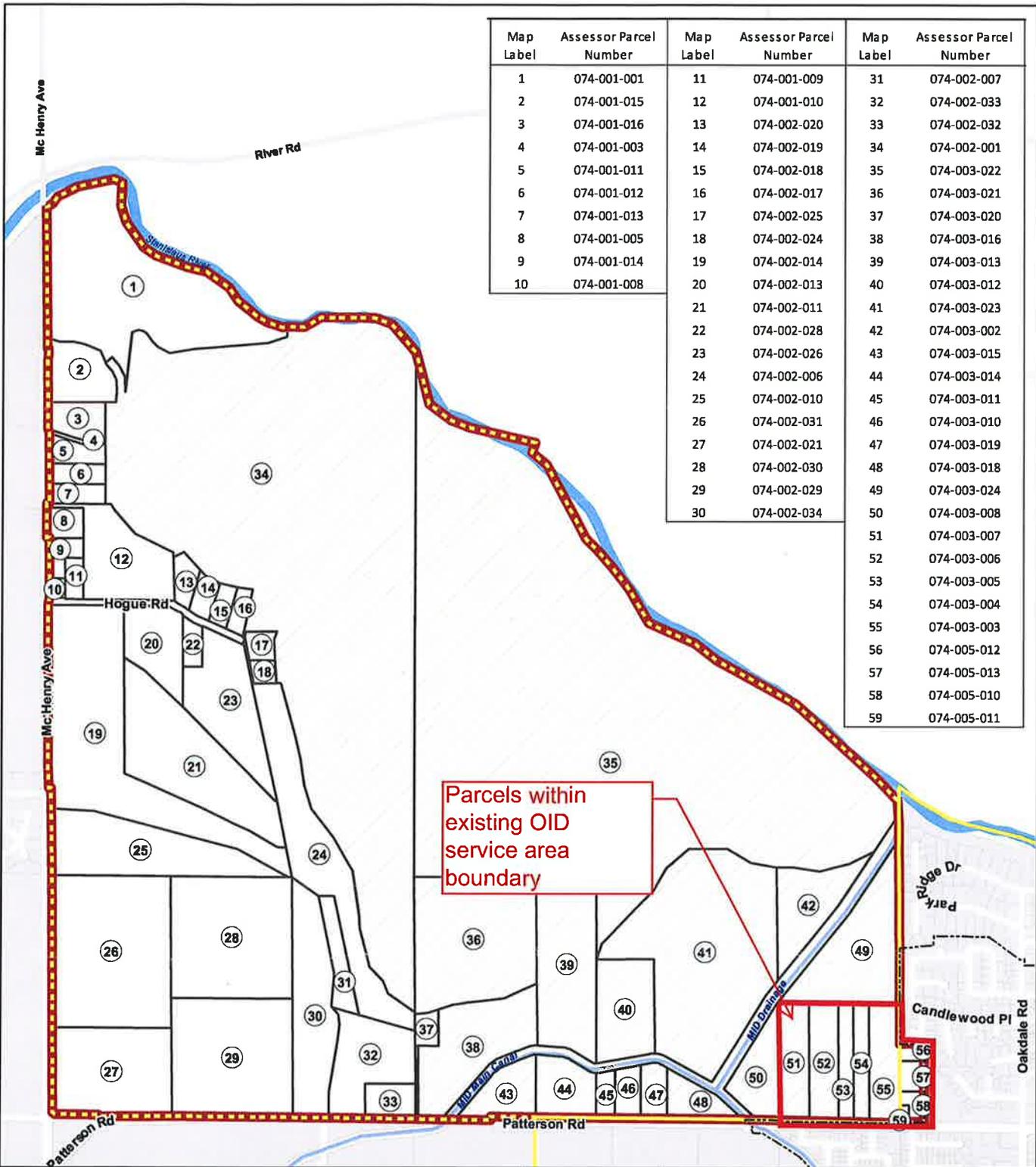
OAKDALE IRRIGATION DISTRICT

A handwritten signature in blue ink, appearing to read "Scot A. Moody", is written over the printed name.

Scot A. Moody
General Manager

cc: STRGBA GSA

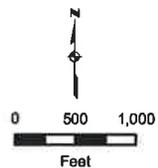
Enclosures: DEIR Figure 2.0-3 with OID Comment
OID Resolution 36-82
OID Project Site Map – OID Riverbank Deep Well
STRGBA GSA Meeting Minutes3-13-24 – NDW: Operational Budget



Map Label	Assessor Parcel Number	Map Label	Assessor Parcel Number	Map Label	Assessor Parcel Number
1	074-001-001	11	074-001-009	31	074-002-007
2	074-001-015	12	074-001-010	32	074-002-033
3	074-001-016	13	074-002-020	33	074-002-032
4	074-001-003	14	074-002-019	34	074-002-001
5	074-001-011	15	074-002-018	35	074-003-022
6	074-001-012	16	074-002-017	36	074-003-021
7	074-001-013	17	074-002-025	37	074-003-020
8	074-001-005	18	074-002-024	38	074-003-016
9	074-001-014	19	074-002-014	39	074-003-013
10	074-001-008	20	074-002-013	40	074-003-012
		21	074-002-011	41	074-003-023
		22	074-002-028	42	074-003-002
		23	074-002-026	43	074-003-015
		24	074-002-006	44	074-003-014
		25	074-002-010	45	074-003-011
		26	074-002-031	46	074-003-010
		27	074-002-021	47	074-003-019
		28	074-002-030	48	074-003-018
		29	074-002-029	49	074-003-024
		30	074-002-034	50	074-003-008
				51	074-003-007
				52	074-003-006
				53	074-003-005
				54	074-003-004
				55	074-003-003
				56	074-005-012
				57	074-005-013
				58	074-005-010
				59	074-005-011

Parcels within existing OID service area boundary

- Legend**
- Project Area
 - Specific Plan Area
 - City of Riverbank
 - Riverbank Sphere of Influence (SOI)
 - Proposed SOI Expansion
 - X Parcels within the Project Area
 - Other Stanislaus County Parcels



RIVERWALK SPECIFIC PLAN

**Figure 2.0-3.
Assessor Parcel Map**

**OID Comments
4-30-24**

Sources: Stanislaus County GIS. Map date: June 7, 2022.

RESOLUTION NO. 36-82
FUTURE ANNEXATION INTO CITY OF RIVERBANK
EFFECTS AUTOMATIC DETACHMENT FROM OAKDALE IRRIGATION DISTRICT

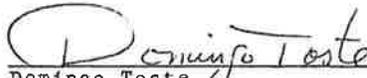
BE IT RESOLVED by the Board of Directors of the Oakdale Irrigation District as follows:

- WHEREAS, lands located within the Oakdale Irrigation District will continue to seek annexation to the City of Riverbank; and
- WHEREAS, the present lands located within the boundaries of the City of Riverbank were detached from the Oakdale Irrigation District according to Resolution No. 29-82 dated and signed August 4, 1982; and
- WHEREAS, future annexations of lands into the City of Riverbank can be automatically detached through the annexation process with the Local Agency Formation Commission by means of the appropriate sections of the Government Code of the State of California.

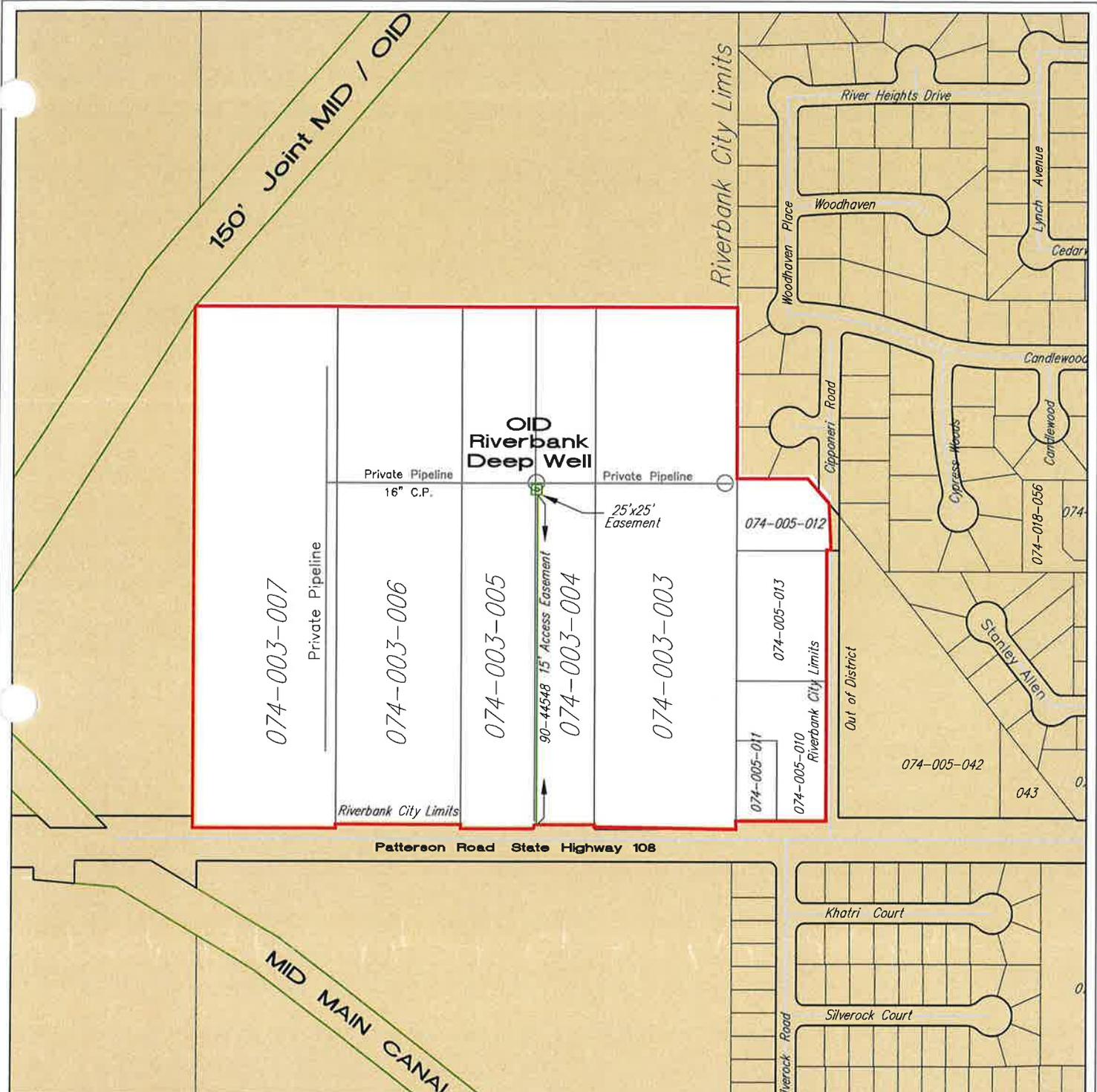
NOW, THEREFORE, BE IT RESOLVED that Oakdale Irrigation District formally requests the Local Agency Formation Commission (LAFCO) to apply the District Reorganization Act procedures to all future annexation of lands into the City of Riverbank thereby effecting an automatic detachment from the Oakdale Irrigation District upon approval of the petition for annexation.

Upon motion of Director Lutz, seconded by Director Kuhlman, and duly submitted to the Board for its consideration, the above Resolution was unanimously adopted.

(MB20, p. 95, 9/1/82)


Domingo Toste
President of the Board


Ed Schnabel, Secretary



OAKDALE IRRIGATION DISTRICT
 1205 EAST F STREET
 OAKDALE CALIFORNIA 95361

PROJECT SITE MAP
 OID SERVICE AREA
 & RIVERBANK DEEP WELL

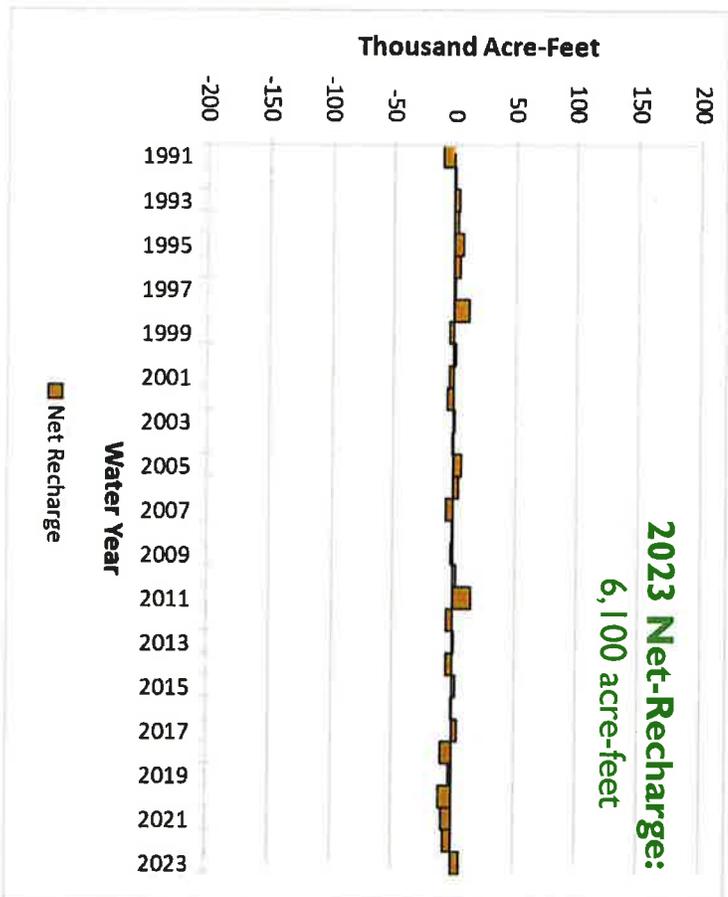
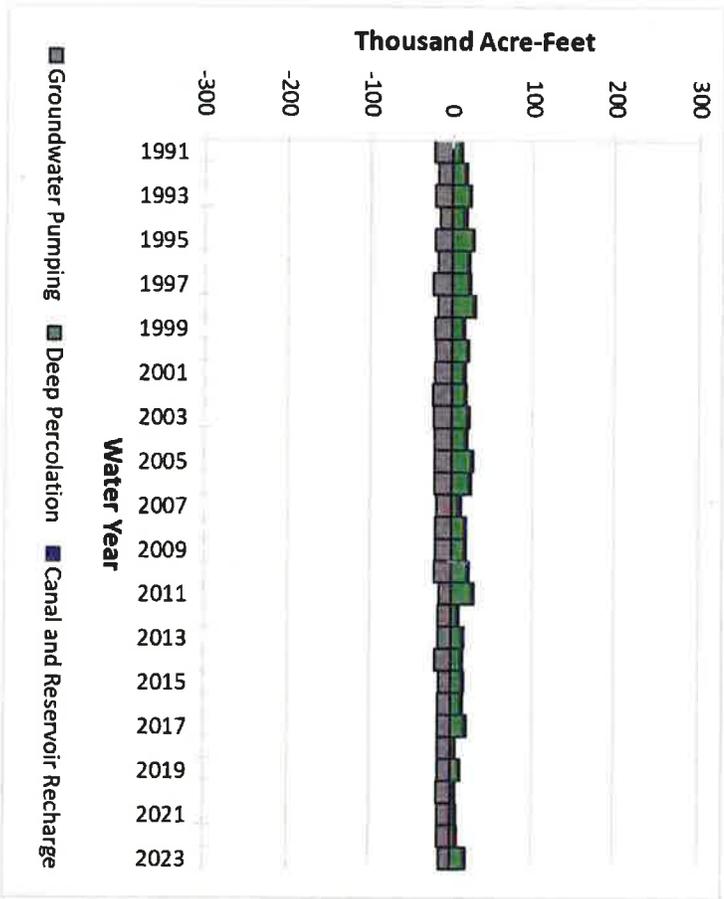


DATE: APRIL 30, 2024
 DRAWN BY: ECS
 CHECKED BY: ECT

RIVER WALK SPECIFIC PLAN

NOT TO SCALE
 SHEET 1 of 1

NON-DISTRICT WEST: OPERATIONAL BUDGET



Source: STRGBA GSA Meeting Minutes 3-13-24
www.strgba.org



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, CA 93710
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



April 25, 2024

Donna Kenney, Planning and Building Manager
City of Riverbank Development Services Department
6707 3rd Street
Riverbank, California 95367
(209) 863-7124
dkenney@riverbank.org

Subject: **River Walk Specific Plan (Project)**
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
SCH: 2021060098

Dear Donna Kenney:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the City of Riverbank, Development Services Department (City of Riverbank) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code. While the comment period may have ended, CDFW respectfully requests that the City of Riverbank still consider our comments.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Donna Kenney, AICP, MCRP
Planning and Building Manager
April 25, 2024
Page 3

significant, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the DEIR.

Currently, the DEIR acknowledges that the Project area is within the geographic range of several special status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special status animal species including the State threatened Swainson's hawk, (*Buteo swainsoni*), the the State candidate endangered Crotch's bumble bee (*Bombus crotchii*), the State species of special concern burrowing owl (*Athene cunicularia*), and nesting bird species.

Swainson's Hawk

CDFW concurs with Mitigation Measure 3.4-6, which proposes to avoid impacts to Swainson's hawk (SWHA). In addition to this measure, CDFW recommends the following measure be included for the Project:

Recommended Mitigation Measure 1: SWHA Take Authorization

If preconstruction surveys detect a nesting SWHA, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is recommended prior to any ground disturbing activities to obtain an Incidental Take Permit (ITP) pursuant to Fish and Game Code section 2081 subdivision (b) to avoid the unauthorized take of SWHA.

Crotch's Bumble Bee

Mitigation Measure 3.4-2 proposes to survey for and avoid impacts to Crotch's bumble bee (CBB) and states, "If construction begins between March 1 and November 1, the ground shall also be searched for active bumble bee colonies. If bee colonies are identified, these colonies shall be demarcated with a flagged avoidance buffer, as determined by a qualified biologist and shall be avoided during the active season from March 1 through November 1, or until the qualified biologist has determined that the colony is no longer active or until the colony is relocated." CDFW does not concur that this measure is adequate to mitigate for impacts to CBB and recommends the following measures be included for the Project:

Recommended Mitigation Measure 2: CBB Habitat Assessment

CDFW recommends a qualified biologist conduct a habitat assessment to determine if there is habitat suitable to support CBB. Potential nesting sites, which include all

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Planning and Building Manager
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construction activities to be performed while the nest is active." CDFW does not concur that this measure is adequate to mitigate for impacts to nesting birds and recommends the following measure be included for the Project:

Recommended Mitigation Measure 6: Nesting Bird Surveys Prior to Construction

If ground-disturbing activities occur during the nesting bird season (February 1 – September 15), CDFW recommends that a qualified biologist conduct pre-activity surveys for active nests no more than one week prior to the start of ground disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, odors, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests.

Recommended Mitigation Measure 7: Nesting Bird Monitoring and/or Avoidance Buffer

Once construction begins, CDFW recommends a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends the work causing that change to cease and that CDFW be consulted for additional avoidance and minimization measures. If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

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CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City of Riverbank in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist, at (559) 807-1453, or john.riedel@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

ec: State Clearinghouse
Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov

Donna Kenney, AICP, MCRP
 Planning and Building Manager
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Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
 RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
 (MMRP)**

PROJECT: Riverwalk Specific Plan

SCH No.: 2021060098

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Swainson's Hawk	
Recommended Mitigation Measure 1: SWHA Take Authorization	
Crotch's Bumble Bee	
Recommended Mitigation Measure 2: CBB Habitat Assessment	
Recommended Mitigation Measure 3: CBB Pre-Construction Survey	
Recommended Mitigation Measure 5: CBB Take Authorization	
Nesting Birds	
Recommended Mitigation Measure 6: NB Pre-Construction Survey	
<i>During Construction</i>	
Crotch's Bumble Bee	
Recommended Mitigation Measure 4: CBB Avoidance Buffers	
Nesting Birds	
Recommended Mitigation Measure 7: NB Avoidance Buffers	

May 24, 2024

Miguel Galvez
City of Riverbank
Planning Department
6707 3rd Street, Suite A
Riverbank, CA 95367

Project: Draft Environmental Impact Report for the River Walk Specific Plan

District CEQA Reference No: 20240149

Dear Mr. Galvez:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) from the City of Riverbank (City) for the proposed River Walk Specific Plan. Per the DEIR, the Project consists of up to 2,707 residential units, 644,000 square feet (sf) for commercial, office, or retail use, public recreation, a bicycle trail system, and 204.98 acres of park, greenway and open space for landscaping (Project). The Project is located in Riverbank, CA.

The District offers the following comments at this time regarding the Project:

1) Project Related Emissions

The District acknowledges that the River Walk Specific Plan represents a program-level undertaking, which presently does not include project-specific information pertaining to individual project-specific components. The DEIR concludes Project construction related activities will be less than significant, and Project operational related activities will be less than significant with mitigation. However, according to Appendix B1 of the DEIR, the 204.98 acres devoted to parks, basins, and other developed landscape were omitted from the overall quantification of Project emissions prepared under the California Emissions Estimator Model (CalEEMod). Although the DEIR concludes construction and operational emissions for the Project are not expected to exceed District's annual criteria pollutant thresholds, the Project emissions may be underestimated due to the omission. Therefore, the District recommends quantification of the overall Project emissions (i.e. parks, basins, etc.) be incorporated into the DEIR.

Samir Sheikh
Executive Director/Air Pollution Control Officer

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Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

1a) Voluntary Emissions Reduction Agreement

Mitigation Measure 3.3-1 provides a list of "*Possible Strategies for Achieving Mandatory Reductions*" to be implemented under a Criteria Pollutant Reduction Plan (CPRP) for each individual development project to ensure a less than significant impact. The District recommends the DEIR consider incorporating a Voluntary Emission Reduction Agreement (VERA) for this Project.

A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate project specific emissions by providing funds for the District's incentives programs.

The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-related impacts on air quality can be mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of agricultural equipment with the latest generation technologies.

In implementing a VERA, the District verifies the actual emission reductions that have been achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. After the project is mitigated, the District certifies to the Lead Agency that the mitigation is completed, providing the Lead Agency with an enforceable mitigation measure demonstrating that project-related emissions have been mitigated.

1b) Individual Project Tracking

The DEIR, specifically page 3.3-31 states "*.....development approvals within the overall River Walk Specific Plan Project shall together be required to ensure that criteria pollutant emissions for the overall River Walk Specific Plan Project do not exceed the SJVAPCD criteria pollutant thresholds for a single year.*" However, it is unclear as to the mechanism for which the City will track the overall Project emissions over time. As such, the District recommends the DEIR include a discussion to describe the process for the City tracking the overall Project emissions as individual projects are approved and developed.

2) Individual Projects / Land Use Agency Referral Documents

The DEIR, specifically page 3.3-32, states that individual development projects implemented under the River Walk Specific Plan will require City approval of a CPRP *"in consultation with SJVACPD and/or a specialist Air Quality consultant"* as described in Mitigation Measure 3.3-1. The District recommends that prior to the CPRP review/approval by the City, each individual development project's CPRP referral documents and/or environmental review documents be provided to the District for review. The documents should include at minimum a project summary, project size, air emissions quantifications, and air emissions mitigation measures.

3) Health Risk Screening/Assessment and Ambient Air Quality Analysis

The District reviewed the Health Risk Assessment (HRA) and Ambient Air Quality Analysis (AAQA) for the Project and has the following comments:

- The District recommends that the DEIR evaluate the health impact of toxic emissions from the construction and operation of the Project on residences, worksites and other sensitive receptors in the Project area. The District acknowledges that the River Walk Specific Plan represents a program-level undertaking, which presently does not include project-specific information pertaining to individual project-specific components. Elements of the Project which are known, however, should be evaluated and the results presented in the DEIR. For instance, the DEIR could evaluate the health impact of the construction and operation diesel exhaust PM10 emissions calculated using CalEEMod.
- The DEIR notes that the District implements the state's Air Toxics "Hot Spots" program (AB 2588; Connelly, 1987), with the implication that additional analysis may not be required in the DEIR. While the Air Toxics "Hot Spots" program requires stationary source facilities to report the types and quantities of toxic substances released into the air and quantify their potential health risk, it does so only for individual facilities after they have begun operation and does not address mobile emissions such as forklifts, tractors, or diesel trucks. As such, it does not prevent exposures nor does it address CEQA projects that may be comprised of more than one facility. Therefore, the Project proponent should not rely upon the Air Toxics "Hot Spots" program to address Project level (cumulative) health risks required to be assessed under CEQA.
- The Project's CalEEMod analysis identifies construction criteria emissions to be greater than 100 pounds per day. The District recommends conducting an AAQA for the Project for all pollutants as described in District Policy APR-2030.

Based on the deficiencies listed above the Project has the potential to exceed District health risk thresholds and/or cause or contribute to an exceedance of an ambient air quality standard. Therefore, the District recommends an HRA and AAQA be performed to ensure the analysis is representative and adequately reflects the Project's potential air quality impacts.

The District is available to review HRA protocols and analyses. For HRA submittals please provide the following information electronically to the District for review:

- HRA (AERMOD) modeling files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodologies.

For assistance, please contact the District's Technical Services Department by:

- E-Mailing inquiries to: hramodeler@valleyair.org
- Calling (559) 230-5900

4) Under-fired Charbroilers

Individual development projects implemented under the River Walk Specific Plan have the potential to occupy restaurants with under-fired charbroilers. Such charbroilers may pose the potential for immediate health risk, particularly when located in densely populated areas or near sensitive receptors.

Since the cooking of meat can release carcinogenic PM2.5 species, such as polycyclic aromatic hydrocarbons, controlling emissions from new under-fired charbroilers will have a substantial positive impact on public health. The air quality impacts on neighborhoods near restaurants with under-fired charbroilers can be significant on days when meteorological conditions are stable, when dispersion is limited and emissions are trapped near the surface within the surrounding neighborhoods. This potential for neighborhood-level concentration of emissions during evening or multi-day stagnation events raises air quality concerns.

Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM2.5 standards. Therefore, the District recommends that the DEIR include a measure requiring the assessment and potential installation, as technologically feasible, of particulate matter emission control systems for new large restaurants operating under-fired charbroilers.

The District is available to assist the City and project proponents with this assessment. Additionally, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system during a demonstration period covering two years of operation.

Please contact the District at (559) 230-5800 or technology@valleyair.org for more information, or visit: <https://ww2.valleyair.org/grants/restaurant-charbroiler-technology-partnership/>

5) Vegetative Barriers and Urban Greening

For individual development projects implemented under the River Walk Specific Plan, and at strategic locations throughout the Project area, the District suggests the City consider incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (e.g., residences, schools, healthcare facilities).

While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, vegetative barriers have been shown to be an additional measure to potentially reduce a population's exposure to air pollution through the interception of airborne particles and the uptake of gaseous pollutants. Examples of vegetative barriers include, but are not limited to the following: trees, bushes, shrubs, or a mix of these.

Generally, a higher and thicker vegetative barrier with full coverage will result in greater reductions in downwind pollutant concentrations. In the same manner, urban greening is also a way to help improve air quality and public health in addition to enhancing the overall beautification of a community with drought tolerant, low-maintenance greenery.

6) Clean Lawn and Garden Equipment in the Community

Since individual development projects implemented under the River Walk Specific Plan consist of residential and commercial development, gas-powered lawn and garden equipment have the potential to result in an increase of NO_x and PM_{2.5} emissions. Utilizing electric lawn care equipment can provide residents with immediate economic, environmental, and health benefits. The District recommends the Project proponent consider the District's Clean Green Yard Machines (CGYM) program which provides incentive funding for replacement of existing gas powered lawn and garden equipment.

More information on the District CGYM program and funding can be found at: <https://ww2.valleyair.org/grants/clean-green-yard-machines-residential/> and <https://ww2.valleyair.org/grants/zero-emission-landscaping-equipment-voucher-program/>.

7) On-Site Solar Deployment

It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the City consider incorporating solar power systems as an emission reduction strategy for individual development projects that may be approved under implementation of the Project.

8) Electric Infrastructure

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the City and project proponents install electric vehicle chargers at project sites, and at strategic locations.

Please visit <https://ww2.valleyair.org/grants/charge-up> for more information.

9) District's Bikeway Incentive Program

Incorporating design elements (e.g., installing bikeways) within the Project that enhance walkability and connectivity can result in a reduction of vehicles miles traveled (VMT) and mitigate potential emissions within the area. The Project may be eligible for funding through the District's Bikeway Incentive Program. The Bikeway Incentive Program provides funding for eligible Class 1 (Bicycle Path Construction), Class II (Bicycle Lane Striping), or Class III (Bicycle Route) projects. These incentives are designed to support the construction of new bikeway projects to promote clean air through the development of a widespread, interconnected network of bike paths, lanes, or routes and improving the general safety conditions for commuter bicyclists. Only municipalities, government agencies, or public educational institutions are eligible to apply.

More information on the grant program can be found at:

<https://ww2.valleyair.org/grants/bike-paths/>

Guidelines and Project Eligibility for the grant program can be found at:

<https://ww2.valleyair.org/media/drpijuw1/bikeway-program-guidelines-62515.pdf>

10) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework.

In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: <https://ww2.valleyair.org/rules-and-planning/current-district-rules-and-regulations>. To identify other District rules or regulations that apply to individual development projects implemented under the River Walk Specific Plan, or to obtain information about District permit requirements, the individual development project proponents under the River Walk Specific Plan are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

10a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District.

District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

Individual development projects implemented under the River Walk Specific Plan may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, project proponents shall obtain an ATC permit from the District for equipment/activities subject to District permitting requirements. *Recommended Mitigation Measure:* For projects subject to permitting by the San Joaquin Valley Air Pollution Control District, demonstration of compliance with District Rule 2201 (obtain ATC permit from the District) shall be provided to the City before issuance of the first building permit.

For further information or assistance, project proponents may contact the District's SBA Office at (209) 557-6446.

10b) District Rule 9510 - Indirect Source Review (ISR)

The Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 9,000 square feet of space.

The purpose of District Rule 9510 is to reduce the growth in both NO_x and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The ISR Rule requires developers to mitigate their NO_x and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

Mitigation Measure 3.3-3 of the DEIR (page 3.3-34) states that "*Prior to the commencement of construction activities for each individual development project, the project applicant(s) for each development project shall prepare and submit a Rule 9510 Indirect Source Review application that meets all SJVAPCD requirements, as applicable.*" However the District would like to clarify, per Rule 9510 specifically section 5.0, an applicant must submit an AIA application to the District no later than applying for a final discretionary approval with a public agency. As such, the District recommends the DEIR be revised for consistency to ensure timely Project submittal of an AIA application consistent with Rule 9510 requirements. As of the date of this letter, the District has not received an AIA application for this Project. Therefore, please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510 so that proper mitigation and clean air design under ISR can be incorporated into the Project's design. One AIA application should be submitted for the entire Project.

Information about how to comply with District Rule 9510 can be found online at: <https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview>

The AIA application form can be found online at: <https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview/forms-and-applications/>

District staff is available to provide assistance, and can be reached by phone at (559) 230-5900 or by email at ISR@valleyair.org.

10c) District Rule 4601 (Architectural Coatings)

The Project will be subject to District Rule 4601 since it is expected to utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements.

Additional information on how to comply with District Rule 4601 requirements can be found online at: <https://ww2.valleyair.org/media/tkgjeusd/rule-4601.pdf>

10d) District Regulation VIII (Fugitive PM10 Prohibitions)

For individual development projects implemented under the River Walk Specific Plan, a project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at: <https://ww2.valleyair.org/media/fm3jrbsq/dcp-form.docx>

Information about District Regulation VIII can be found online at: <https://ww2.valleyair.org/dustcontrol>

10e) District Rule 4901 - Wood Burning Fireplaces and Heaters

The purpose of this rule is to limit emissions of carbon monoxide and particulate matter from wood burning fireplaces, wood burning heaters, and outdoor wood burning devices. This rule establishes limitations on the installation of new wood burning fireplaces and wood burning heaters.

Specifically, at elevations below 3,000 feet in areas with natural gas service, no person shall install a wood burning fireplace, low mass fireplace, masonry heater, or wood burning heater.

Information about District Rule 4901 can be found online at:
<https://ww2.valleyair.org/compliance/residential-wood-smoke-reduction-program/>

10f) Other District Rules and Regulations

Individual development projects implemented under the River Walk Specific Plan may also be subject to the following District rules: Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

If you have any questions or require further information, please contact Jacob Torrez by e-mail at jacob.torrez@valleyair.org or by phone at (559) 230-6558.

Sincerely,

Tom Jordan
Director of Policy and Government Affairs



For: Mark Montelongo
Program Manager