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FINAL
Environmental Impact Report
Baldwin Master Plan/Zacharias Master Plan Project
City of Patterson, Stanislaus County, California

State Clearinghouse No. 2018122052

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Date: July 1, 2021

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SECTION 1: INTRODUCTION

In accordance with California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Patterson (Lead Agency) has evaluated the comments received on the Baldwin Master Plan / Zacharias Master Plan Project Draft Environmental Impact Report (Draft EIR). Pursuant to CEQA Guidelines Section 15132, this Final EIR includes a list of persons, organizations, and agencies that provided comments on the Draft EIR; responses to the comments received regarding the Draft EIR; and errata, or revisions to the Draft EIR; as well as a Mitigation Monitoring and Reporting Program (MMRP) for use by the City of Patterson during its review.

This document is organized into three sections:

- **Section 1—Introduction.** Provides an introduction to the Final EIR.
- **Section 2—Master Responses.** Provides a single, comprehensive response to similar comments about a particular topic.
- **Section 2—Responses to Written Comments.** Provides a list of the agencies, organizations, and individuals who commented on the Draft EIR. Copies of all of the letters received regarding the Draft EIR and responses thereto are included in this section.
- **Section 3—Errata.** Includes an addendum listing refinements and clarifications on the Draft EIR, which have been incorporated.

The Final EIR includes the following contents:

- Draft EIR (provided under separate cover)
- Draft EIR Appendices (provided under separate cover)
- Responses to Written Comments on the Draft EIR and Errata (Sections 2 and 3 of this document)
- Mitigation Monitoring and Reporting Program (provided under separate cover)

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SECTION 2: MASTER RESPONSES

Master responses address similar comments made by multiple public agencies, businesses, organizations, or individuals through written comments submitted to the City of Patterson. Master responses are provided in the order in which they are referenced in the responses in Section 3.

2.1 - List of Master Responses

- Master Response 1—Request For Extension of Time Period

2.2 - Master Responses

Master Response 1—Request For Extension of Time Period

Summary of Relevant Comments

Both the County of Stanislaus and Stanislaus Local Agency Formation Commission (LAFCO) indicated that they became aware that the Draft EIR was circulating for public review weeks after it was released on December 3, 2020. Both agencies requested that the City of Patterson re-notice the availability of the Draft EIR and establish a new 45-day review period.

Response

The Draft EIR was released on December 3, 2020. The document was submitted to the State Clearinghouse and was posted on the CEQAnet database. The Draft EIR was also posted on the City of Patterson's website. The applicant team, with City staff in attendance, held a virtual meeting with the various Ranchette Triangle property owners on December 10, 2020, to advise them of the availability of the Draft EIR and discuss various aspects of the proposed Master Plans.

The City of Patterson was advised on January 5, 2020, that certain parties did not receive notice of the Draft EIR's availability. In accordance with the procedures set forth in the CEQA Guidelines, the City extended the Draft EIR review period by 15 days, which created a 60-day review period. That 60-day window closed on February 4, 2021. Both the County of Stanislaus and LAFCO submitted letters by the February 4, 2021, deadline and those comments are addressed in this Final EIR.

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SECTION 3: RESPONSES TO WRITTEN COMMENTS

3.1 - List of Authors

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

Author **Author Code**

State Agencies

California Department of Fish and Game ..... CDFW
California Department of Toxic Substances Control ..... DTSC
Central Valley Regional Water Quality Control Board ..... RWQCB

Local Agencies

Stanislaus County Environmental Review Committee ..... ERC
Stanislaus Local Agency Formation Commission (January 14, 2021) LAFCO.1
Stanislaus Local Agency Formation Commission (February 3, 2021) LAFCO.2
Patterson Irrigation District ..... PID
San Joaquin Valley Air Pollution Control District ..... APCD

Private Parties

Hank Gnesa ..... GNESA

3.2 - Responses to Comments

3.2.1 - Introduction

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Patterson, as the lead agency, evaluated the comments received on the Draft EIR (State Clearinghouse No. 2018122052) for the Baldwin Master Plan/Zacharias Master Plan Project, and has prepared the following responses to the comments received. This Response to Comments document becomes part of the Final EIR for the project in accordance with CEQA Guidelines Section 15132.

3.2.2 - Comment Letters and Responses

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

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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

January 19, 2021

Joel Andrews, City Planner
City of Patterson Community Development Department
1 Plaza Circle
Patterson, California 95363
jandrews@ci.patterson.ca.us

Subject: Baldwin Master Plan/Zacharias Master Plan Project (Project)
Draft Environmental Impact Report (DEIR)
SCH No. 2018122052

Dear Mr. Andrews:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the City of Patterson Community Development Department for the above-referenced 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, CDFW appreciates 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 Fish and Game Code.

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CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statue 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.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). 1 CONT

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on Project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Patterson Community Development Department

Objective: The proposed Project consists of two separate Master Plans (Baldwin and Zacharias), that together involve the annexation of 1,297 acres into the City of Patterson and contemplate the development of residential, mixed use, commercial, industrial, school, parks, and open space uses. The combined buildout potential of the Master Plans is 5,086 dwelling units, 7,765,000 square feet of non-residential uses, two schools, a dual use stormwater basin/recreational facility, and 76 acres of parks/open space. 2

Location: The Project location is located just north of the City of Patterson, bounded by Zacharias Road, Baldwin Road, Ward Avenue, and State Route 33.

Timeframe: The proposed Project proposes a 20-year buildout schedule.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Patterson Community Development Department in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. 3

There are many special-status resources that may be impacted as a result of Project implementation, and these resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the State threatened Swainson's hawk (*Buteo swainsoni*), the State threatened tricolored blackbird (*Agelaius tricolor*), and the State species of special concern burrowing owl (*Athene cunicularia*). 3 CONT

I. Environmental Setting and Related Impact

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS)?

COMMENT 1: Swainson's Hawk (SWHA)

Issue: SWHA have the potential to nest and forage within the Project site. The proposed Project will involve activities near large trees that may serve as potential nest sites. The proposed Project at buildout will also result in loss of foraging habitat.

Specific impacts: Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include: nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. Any take of SWHA without appropriate incidental take authorization would be a violation of Fish and Game Code. 4a

Evidence impact is potentially significant: SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat in the San Joaquin Valley limits their local distribution and abundance (CDFW 2016). Approval of the Project will lead to subsequent ground-disturbing activities that involve noise, groundwork, and movement of workers that could affect nests and has the potential to result in nest abandonment, significantly impacting local nesting SWHA.

Recommended Potentially Feasible Mitigation Measure(s)
To evaluate potential impacts to SWHA associated with the Project, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 1: SWHA Surveys

CDFW agrees with MM BIO-1b of the DEIR that surveys for nesting SWHA will follow the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000). The SWHA TAC recommends a 0.5-mile survey distance from the limits of disturbance. The survey protocol includes early season surveys to assist the 4b

project proponent in implementing necessary avoidance and minimization measures, and in identifying active nest sites prior to initiating ground-disturbing activities. 4b CONT

Recommended Mitigation Measure 2: SWHA No-disturbance Buffer

If ground-disturbing activities are to take place during the normal bird breeding season (March 1 through September 15), CDFW recommends that additional pre-activity surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of Project implementation to ensure that no SWHA have begun nesting activities near the Project site. MM BIO-1b states that a work-free buffer area will be established and monitored by a qualified biologist, and the biologist shall have discretion to determine the appropriate buffer which may involve consultation with CDFW. CDFW recommends a minimum no-disturbance buffer of 0.5-mile be delineated around active nests 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. 4c

Recommended Mitigation Measure 3: SWHA Take Authorization

CDFW recommends that in the event an active SWHA nest is detected during surveys and a 0.5-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the issuance of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA. 4d

Recommended Mitigation Measure 4: Loss of SWHA Foraging Habitat

CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report:

- For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised. 4e
- For projects within 5 miles of an active nest but greater than 1 mile, a minimum of ¾ acre of HM land for each acre of development is advised.
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of ½ acre of HM land for each acre of development is advised.

Recommended Mitigation Measure 5: SWHA Nest Trees

CDFW recommends that the removal of known raptor nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ratio of 3:1 at or near the Project site or in another area that will be protected in perpetuity to reduce impacts resulting from the loss of nesting habitat. 4f

COMMENT 2: Tricolored Blackbird (TRBL)

Issue: TRBL have the potential to occur in the vicinity of the Project site (CDFW 2020). Review of aerial imagery indicates that the Project site has many agricultural fields that may support nesting TRBL colonies. Flood-irrigated agricultural land, including silage fields, is an increasingly important nesting habitat type for TRBL, particularly in the San Joaquin Valley (Meese, 2014).

Specific impact: Without appropriate avoidance and minimization measures for TRBL, potential significant impacts associated with the Project include nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Evidence impact would be significant: As mentioned above, flood-irrigated agricultural land, including silage fields associated with dairies, is an increasingly important nesting habitat type for TRBL, particularly in the San Joaquin Valley (Meese et al. 2014). This potential nesting substrate is present adjacent to the Project area. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014). Approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). Increasingly, TRBL are forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, for example, 55% of the species' global population nested in only two colonies, which were located in silage fields (Kelsey 2008). In 2017, approximately 5,800 TRBL were distributed among only two colonies in Fresno County (Meese 2017). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, depending on timing, disturbance to nesting colonies can cause abandonment, significantly impacting TRBL populations (Meese et al. 2014). 5a

Recommended Potentially Feasible Mitigation Measure(s)
To evaluate potential impacts to TRBL, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 6: TRBL Surveys 5b

CDFW recommends that construction be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys

for nesting TRBL no more than 10 days prior to the start of implementation to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts. 5b CONT

Recommended Mitigation Measure 7: TRBL Avoidance

If an active TRBL nesting colony is found during preconstruction surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time and for this reason the colony should be reassessed to determine the extent of the breeding colony within 10 days of Project initiation. 5c

Recommended Mitigation Measure 8: TRBL Take Avoidance

In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground-disturbing activities. 5d

COMMENT 3: Burrowing Owl (BUOW)

Issue: BUOW may occur within and/or adjacent to the Project site. BUOW inhabit open grassland containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Habitat both within and bordering the Project site, supports grassland habitat.

Specific impact: Potentially significant direct impacts associated with subsequent activities and development include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals. 6a

Evidence impact is potentially significant: BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais et al. 2008). Therefore, subsequent ground-disturbing activities associated with Project approval have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact)
To evaluate potential impacts to BUOW associated with the Project, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

6b

Recommended Mitigation Measure 9: BUOW Surveys

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012). Specifically, the California Burrowing Owl Consortium (CBOC) and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.

Recommended Mitigation Measure 10: BUOW Avoidance

CDFW recommends no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

6c

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

II. Editorial Comments and/or Suggestions

Nesting birds: CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

7a

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation 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 Project sites to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures. 7b

If continuous monitoring of identified nests by a qualified wildlife 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 on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction areas would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance. 7c

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals. 8

FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project 9

approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CDFW appreciates the opportunity to comment on the Project to assist the City of Patterson Community Development Department in identifying and mitigating the Project's impacts on biological resources.

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CONT

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (https://www.wildlife.ca.gov/Conservation/Survey-Protocols). If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014 extension 254, or by electronic mail at Jim.Vang@wildlife.ca.gov.

Sincerely,

DocuSigned by:
FA83F09FE08945A...
Julie A. Vance
Regional Manager

Attachment

ec: Office of Planning and Research
State Clearinghouse

Jim Vang
California Department of Fish and Wildlife

LITERATURE CITED

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California Department of Fish and Game. 1994. Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo Swainsoni*) in the Central Valley of California. California Department of Fish and Wildlife.

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CDFW. 2016. Five Year Status Review for Swainson's Hawk (*Buteo swainsoni*). California Department of Fish and Wildlife. April 11, 2016.

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Kelsey, R., 2008. Results of the tricolored blackbird 2008 census. Report submitted to U.S. Fish and Wildlife Service, Portland, OR, USA.

Meese, R. J. 2014. Results of the 2014 Tricolored Blackbird Statewide Survey. University California, Davis, USA. Available from: http://tricolor.ice.ucdavis.edu/content/2014-statewide-survey-final-report.

Meese, R. J., E. C. Beedy, and W. J. Hamilton, III, 2014. Tricolored blackbird (Agelaius tricolor), The Birds of North America (P. G. Rodewald, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America: https://birdsna-org.bnaproxy.birds.cornell.edu/Species-Account/bna/species/tribla.

Meese, R. J., 2017. Results of the 2017 Tricolored Blackbird Statewide Survey. California Department of Fish and Wildlife, Wildlife Branch, Nongame Wildlife Program Report 2017-04, Sacramento, CA. 27 pp. + appendices.

Orians, G. H. 1961. The ecology of blackbird (*Agelaius*) social systems. Ecol. Monogr. 31:285-312

10

Swainson's Hawk Technical Advisory Committee (SWHA TAC). 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee, May 31, 2000.

Weintraub, K., T. L. George, and S. J. Dinsmore, 2016. Nest survival of tricolored blackbirds in California's Central Valley. The Condor 118(4): 850–861.

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CONT

Attachment 1

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

PROJECT: Baldwin Master Plan/Zacharias Master Plan Project

SCH No.: 2018122052

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
Before Disturbing Soil or Vegetation	
Mitigation Measure 1: SWHA Surveys	
Mitigation Measure 3: SWHA Take Authorization	
Mitigation Measure 4: Loss of SWHA Foraging Habitat	
Mitigation Measure 5: SWHA Nest Trees	
Mitigation Measure 6: TRBL Surveys	
Mitigation Measure 8: TRBL Take Avoidance	
Mitigation Measure 9: BUOW Surveys	
During Construction	
Mitigation Measure 2: SWHA No-disturbance Buffer	
Mitigation Measure 7: TRBL Avoidance	
Mitigation Measure 10: BUOW Avoidance	

11

State Agencies

California Department of Fish and Wildlife (CDFW)

Response to CDFW-1
The agency provided introductory remarks and summarized its regulatory responsibilities. No response is necessary.

Response to CDFW-2
The agency provided a summary of the proposed project. No response is necessary.

Response to CDFW-3
The agency summarized its comments regarding the Swainson's hawk, tricolored blackbird, and burrowing owl. The agency's specific comments are addressed in Response to CDFW-4a through Response to CDFW-7c.

Response to CDFW-4a
The agency stated that the Swainson's hawk has the potential to nest and forage within the project site.

Exhibit 3-1 depicts the location of the nearest recorded Swainson's hawk occurrence to the Master Plan areas.

Response to CDFW-4b
The agency stated it agreed with Mitigation Measure BIO-1b, which requires pre-construction surveys for Swainson's hawk. No response is necessary.

Response to CDFW-4c
The agency stated that the pre-construction surveys for the Swainson's hawk should occur no more than 10 days prior to the initiation of ground disturbing activities (e.g., clearing and grubbing) and that a minimum 0.5-mile no disturbance buffer should be established around active nests.

Mitigation Measures BIO-1a and BIO-1b have been revised to include the 10-day provision. Mitigation Measure BIO-1b has been revised to include the 0.5-mile no disturbance buffer. The changes are noted in Section 4, Errata.

Response to CDFW-4d
The agency noted that if avoidance of an active Swainson's hawk nest is not possible, consultation with CDFW will be required. The agency noted that an Incidental Take Permit may be necessary.

The City of Patterson intends to fully exhaust avoidance measures in the event a Swainson's hawk nest is found to be present, including consultation with CDFW. An incidental take of this species is considered a 'worst case' scenario and would be highly unlikely.

Response to CDFW-4e
The agency recommended that mitigation should be provided for the loss of Swainson's hawk foraging habitat. Such mitigation would include the following mitigation measures: 1:1 mitigation for foraging habitat within 1 mile of an active nest tree; 0.75:1 mitigation for foraging habitat within 1 to 5 miles of an active nest tree; and 0.5:1 mitigation for foraging habitat within 5 to 10 miles of an

active nest tree. The agency stated that mitigation lands should be protected in perpetuity under a conservation easement.

Exhibit 3-1 shows that nearest recorded nesting location for the Swainson's hawk is 0.5-mile east of the Zacharias Master Plan. There are no recorded nesting locations within either the Baldwin or Zacharias Master Plan boundaries. As shown on Exhibit 3-1, most of the recorded occurrences of this species are near the San Joaquin River.

The biological survey results indicated that there is a moderate potential for Swainson's hawk foraging and relatively low potential for nesting in the Master Plan areas due to limited large trees.

It should be noted that all species of *Buteo* frequently change nesting locations from year to year, and may reuse a nest site in successive years or may move to a different nest site for one year and then back to nest sites used previously. Raptor biologists generally regard nests that are currently in use to be the "active nests," while nests that are used in successive years or in alternate years are regarded as "alternate nest sites." The California Endangered Species Act (CESA) and Fish and Game Codes (CDFG Code Section 2050, and sections 3503, 3503.5, 3513, and 3800), which protect nesting birds (and raptors) , would afford protections only to those nests that are currently in use by the nesting birds. Alternate nesting sites that are not occupied are afforded no protections pursuant to the CESA or the Fish and Game Codes that protect nesting birds.

The CDFW letter suggests that the mitigation prescriptions for impacts to Swainson's hawk foraging habitat presented in the CDFW's November 1, 1994 "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo swainsoni*) in the Central Valley of California" are still relevant to the proposed project. This staff report was prepared 27 years ago at a time when the Swainson's hawk nesting records were limited to a few nests known in the area of Davis, California, and to a few nesting records in northeastern California on the Modoc Plateau.

In 1979, a report prepared by Dr. Peter Bloom estimated 375 (±50) breeding pairs of Swainson's hawks remaining in California. Dr. Bloom's report noted that nesting numbers were greatest in the Central Valley and in the Great Basin area of northeastern California, with a few Swainson's hawk territories located in Shasta Valley, the Owens Valley, and the Mohave Desert. In 1988, a CDFW-led survey effort revealed no change in Swainson's hawk distribution from the 1980 report. The 1988 effort led to an estimate of 430 pairs in the Central Valley and a statewide estimate of 550 breeding pairs. In 2005, a statewide survey was conducted in the known range. The results showed a statewide estimate for the number breeding pairs at 2,081.

Around 2005, Dr. Bloom noted that the Swainson's hawk population in California and throughout its historic range in North America was suffering from acute poisoning from grasshopper insecticides that were being applied directly on their migration roosts in Argentina. This practice has largely been stopped in Argentina within the last 15 years and the Swainson's hawk nesting population in California has grown significantly, as noted previously. The Swainson's hawk nesting distribution now occurs in many areas where the Swainson's hawk has not been known to nest for decades, if ever. One example is east Contra Costa County where nesting had not been recorded for many decades.

It is noteworthy that other raptors that were state and federally listed when the Swainson's hawk was state listed in 1983 such as the bald eagle (*Haliaeetus leucocephalus*) and the peregrine falcon (*Falco peregrinus*) have been delisted (i.e., removed from protections provided by both the California Endangered Species Act and the Federal Endangered Species Act). The federal government conducted routine census surveys for these species and determined that the nesting populations of these species had fully recovered, and, thus, protection pursuant to the Federal Endangered Species Act was no longer warranted. CDFW followed these delisting efforts. In contrast, the Swainson's hawk was never federally listed, and as the State of California does not have a recovery plan for the Swainson's hawk, there is no guideline for what constitutes recovery. In addition, the Swainson's' hawk has not been counted to the same extent as federally listed raptor species. Thus, mitigation prescriptions developed in 1994 are very likely outdated today.

It is also important to note the abundance of Swainson's hawk foraging habitat in the Patterson area. While the Master Plan areas are adjacent to existing urban uses within Patterson, there are uninterrupted swaths of foraging habitat (agricultural and grazing land) for approximately 30 miles to the west, north, east, and south; refer to Exhibit 3-1. Given the abundance of other higher quality foraging options in the area, the loss of the on-site agricultural fields (orchards and row crops) would not present a significant impact to a species that is accustomed to moving nest locations from year to year and foraging over a large area. Thus, compensatory mitigation for Swainson's hawk foraging habitat is not necessary nor recommended.

Response to CDFW-4f
The agency recommended that the removal of known raptor trees be replaced with appropriate native tree species at a ratio of 3:1 to reduce impacts from loss of nesting habitat.

There are no known raptor trees within the Master Plan area. Nonetheless, the 3:1 provision will be added to Mitigation Measure BIO-1b. The changes are noted in Section 4, Errata.

Response to CDFW-5a
The agency stated that the tri-colored blackbird has the potential to occur in the project vicinity because of the presence of agricultural fields. The agency indicated that flood-irrigated agricultural land, including silage fields, is an increasingly important habitat type, and noted that 5,800 tri-colored blackbirds were distributed among two colonies in Fresno County.

The biological survey did not identify habitat suitable for a tri-colored blackbird nesting colony. CDFW's Life History Account for the tri-colored blackbird indicated that this species nests near emergent wetlands with tall, dense cattails or tules. These conditions do not exist within or near the Master Plan area. Nonetheless, Mitigation Measure BIO-1a has been revised to include surveys for this species. The changes are noted in Section 4, Errata.

Response to CDFW-5b
The agency recommended conducting pre-construction surveys for the tri-colored blackbird.

Mitigation Measure BIO-1a has been revised to include surveys for this species. The changes are noted in Section 4, Errata.

Response to CDFW-5c
The agency recommended implementing avoidance measures if an active tri-colored blackbird colony is found during pre-construction surveys.

Mitigation Measure BIO-1a has been revised to include avoidance measures for this species. The changes are noted in Section 4, Errata.

Response to CDFW-5d
The agency indicated that consultation is required if take of the tri-colored blackbird is necessary.

The City of Patterson intends to fully exhaust avoidance measures in the event a tri-colored blackbird nest is found to be present, including consultation with CDFW. An incidental take of this species is considered a 'worst case' scenario and would be highly unlikely.

Response to CDFW-6a
The agency stated that the burrowing owl has the potential to occur within the project site. Refer to Response to CDFW-6b and Response to CDFW-6c.

Response to CDFW-6b
The agency recommended conducting pre-construction surveys for the burrowing owl.

Mitigation Measure BIO-1a has been revised to include surveys for this species. The changes are noted in Section 4, Errata.

Response to CDFW-6c
The agency recommended implementing avoidance measures if burrowing owls are found during pre-construction surveys.

Mitigation Measure BIO-1a has been revised to include avoidance measures for this species. The changes are noted in Section 4, Errata.

Response to CDFW-7a
The agency encouraged project implementation to occur during the non-nesting season. The agency stated that if ground disturbing activities do occur during the nesting season, the applicant is required to ensure that they do not violate the Migratory Bird Treaty Act.

Mitigation Measure BIO-1a requires nesting bird surveys for ground disturbance that occurs during the nesting season in accordance with the Migratory Bird Treaty Act.

Response to CDFW-7b
The agency provided recommendations for the nesting bird surveys.

Mitigation Measure BIO-1a has been revised to include the agency's recommendations. The changes are noted in Section 4, Errata.

Response to CDFW-7c
The agency provided additional recommendations for the nesting bird surveys.

Mitigation Measure BIO-1a has been revised to include the agency's recommendations. The changes are noted in Section 4, Errata.

Response to CDFW-8
The agency requested that any special status species observed during project-specific field surveys be reported to the California Natural Diversity Database.

No special status species were observed during the field survey.

Response to CDFW-9
The agency provided closing remarks. No response is necessary.

Response to CDFW-10
The agency listed literature cited in its letter. No response is necessary.

Response to CDFW-11
The agency provided Attachment 1, a recommended mitigation monitoring and reporting program.

Refer to Responses CDFW-3 through CDFW-7c.

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Department of Toxic Substances Control

Meredith Williams, Ph.D.
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December 16, 2020

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DRAFT ENVIRONMENTAL IMPACT REPORT FOR BALDWIN MASTER PLAN / ZACHARIAS MASTER PLAN PROJECT – DATED DECEMBER 3, 2020 (STATE CLEARINGHOUSE NUMBER: 2018122052)

Mr. Andrews:

The Department of Toxic Substances Control (DTSC) received a Draft Environmental Impact Report (EIR) for Baldwin Master Plan / Zacharias Master Plan (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, work in close proximity to mining or suspected mining or former mining activities, presence of site buildings that may require demolition or modifications, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site. 1

DTSC recommends that the following issues be evaluated in an Initial Study (IS). Hazards and Hazardous Materials section:

1. The IS should acknowledge the potential for historic or future activities on or near the project site to result in the release of hazardous wastes/substances on the project site. In instances in which releases have occurred or may occur, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. The IS should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight. 2
2. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance. This practice did not officially end until 1992 when lead was banned as a fuel additive 3

in California. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in aerially deposited lead (ADL) being deposited in and along roadways throughout the state. ADL-contaminated soils still exist along roadsides and medians and can also be found underneath some existing road surfaces due to past construction activities. Due to the potential for ADL-contaminated soil DTSC, recommends collecting soil samples for lead analysis prior to performing any intrusive activities for the project described in the IS. 3 CONT

3. If any sites within the project area or sites located within the vicinity of the project have been used or are suspected of having been used for mining activities, proper investigation for mine waste should be discussed in the IS. DTSC recommends that any project sites with current and/or former mining operations onsite or in the project site area should be evaluated for mine waste according to DTSC's 1998 Abandoned Mine Land Mines Preliminary Assessment Handbook (https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/11/aml_handbook.pdf). 4

4. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with DTSC's 2006 *Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers* (https://dtsc.ca.gov/wpcontent/uploads/sites/31/2018/09/Guidance_Lead_Contamination_050118.pdf). 5

5. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to *DTSC's 2001 Information Advisory Clean Imported Fill Material* (https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/SMP_FS_Cleanfill-Schools.pdf). 6

6. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the IS. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 *Interim Guidance for Sampling Agricultural Properties (Third Revision)* (https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/Ag-Guidance-Rev-3-August-7-2008-2.pdf). 7

DTSC appreciates the opportunity to comment on the IS. Should you need any assistance with an environmental investigation, please submit a request for Lead 8

Agency Oversight Application, which can be found at: https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/VCP_App-1460.doc. Additional information regarding voluntary agreements with DTSC can be found at: https://dtsc.ca.gov/brownfields/.

8
CONT

If you have any questions, please contact me at (916) 255-3710 or via email at Gavin.McCreary@dtsc.ca.gov.

Sincerely,

Gavin McCreary
Project Manager
Site Evaluation and Remediation Unit
Site Mitigation and Restoration Program
Department of Toxic Substances Control

cc: (via email)

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

Mr. Dave Kereazis
Office of Planning & Environmental Analysis
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

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California Department of Toxic Substances Control (DTSC)

Response to DTSC-1
The agency provided introductory remarks. No response is necessary.

Response to DTSC-2
The agency recommended that the Initial Study should acknowledge the potential for historic or future activities on or near the project site to result in the release of hazardous wastes or substances on the project site.

The Draft EIR evaluated potential sources of hazardous materials within the project site or project vicinity in Section 3.8, Hazards and Hazardous Materials. The Draft EIR did not find any evidence that past or future activities would result in the release of hazardous wastes or substances.

Response to DTSC-3
The agency recommended that the Initial Study evaluate the potential presence of aerially deposited lead (ADL) from tailpipe emissions within the project site.

ADL is most commonly found along high-volume roadways such as freeways, highways, and major urban arterials. The roadways within and adjacent to the Master Plan areas are rural two-lane roads (e.g., State Route 33, Baldwin Road, Rogers Road, Ward Avenue, and Zacharias Road) that carry low volumes of traffic relative to freeways, highways, and major urban arterials. Moreover, most of the Master Plan area consists of cultivated agricultural land, which is regularly disturbed by discing and tilling. Thus, to the extent ADL may be present, it would not be expected to be found in any significant concentration due to low traffic volumes on adjoining roadways and routine soil disturbance.

Response to DTSC-4
The agency recommended that the Initial Study evaluate the potential presence of hazardous materials from past mining activities and conduct a proper investigation for mine waste.

As discussed in Section 3.8, Hazards and Hazardous Materials, the project site supports agricultural land use activities. It does not currently nor has it previously supported mining activities. Thus, there is no basis to investigate mine waste.

Response to DTSC-5
The agency recommended that the Initial Study evaluate the potential presence of hazardous building materials such as asbestos, lead based paint, mercury, and polychlorinated biphenyls (PCBs) and advised that the removal of such materials should be done in accordance with State regulations and policies.

The Draft EIR evaluated hazardous building materials on pages 3.8-11 through 3.8-13. The analysis noted that there are structures within the Master Plan area that may contain hazardous building materials. The Draft EIR set forth Mitigation Measure HAZ-3b, which requires the applicant to retain a qualified hazardous materials contractor to remove such materials prior to demolition.

Response to DTSC-6
The agency recommended that the Initial Study evaluate the potential presence of contamination with imported soil used for backfill.

Due to the flat, gently sloping relief of the project site, grading activities are expected to balance. Thus, no soil import would be required.

Response to DTSC-7
The agency recommended that the Initial Study evaluate the potential presence of organochlorinated pesticides.

The Draft EIR evaluated the potential presence of agricultural chemicals (including organochlorinated pesticides) on pages 3.8-11 through 3.8-13. The analysis noted that the Master Plan areas support cultivated agriculture and such activities involve the application of agricultural chemicals. The Draft EIR set forth Mitigation Measure HAZ-3a, which requires the applicant to retain a qualified consultant to conduct soil sampling for agricultural chemicals and remove any soils that exceed acceptable exposure levels.

Response to DTSC-8
The agency provided closing remarks. No response is necessary.

CALIFORNIA Water Boards

GAVIN NEWSOM
GOVERNOR

JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

19 January 2021

Joel Andrews
City of Patterson
1 Plaza Circle
Patterson, CA 95363

COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, BALDWIN MASTER PLAN / ZACHARIAS MASTER PLAN PROJECT, SCH#2018122052, STANISLAUS COUNTY

Pursuant to the State Clearinghouse's 3 December 2020 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 Baldwin Master Plan / Zacharias Master Plan Project, located in Stanislaus County. 1

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. 2

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 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_201805.pdf

2 CONT

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

3a

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits[1]

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. 3a CONT

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

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ. For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at: http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml 3b

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. 3c

[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.

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 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/ 3d

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/ 3e

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. 3f

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

3f CONT

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

3g

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/

3h

If you have questions regarding these comments, please contact me at (916) 464-4856 or Nicholas.White@waterboards.ca.gov.

4

Nicholas White
Water Resource Control Engineer

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

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Central Valley Regional Water Quality Control Board (RWQCB)

Response to RWQCB-1
The agency provided introductory remarks. No response is necessary.

Response to RWQCB-2
The agency provided a summary of the Basin Plan. No project-specific comments were provided.

The Draft EIR provided a description of the agency's regulatory responsibilities on Page 3.8-10. The description included a discussion of the Basin Plan.

Response to RWQCB-3a
The agency provided a summary of the Construction Storm Water General Permit and Phase I and Phase II Municipal Separate Storm Sewer System Permits. No project-specific comments were provided.

The Draft EIR provided a description of permitting of stormwater discharges for construction and operational activities on Pages 3.9-8 and 3.9-10. The Draft EIR evaluated project-related construction stormwater discharges on Pages 3.9-18 and 3.9-21. The Draft EIR set forth Mitigation Measure HYD-1a, which requires the applicant to implement a stormwater pollution prevention plan during construction, and Mitigation Measure HYD-1b, which requires the applicant to implement Low Impact Design measures into the proposed storm drainage system.

Response to RWQCB-3b
The agency summarized the Industrial Storm Water General Permit. No project-specific comments were provided.

The proposed Master Plans do not contemplate any end uses that would be subject to the Industrial Storm Water General Permit.

Response to RWQCB-3c
The agency summarized Clean Water Act Section 404 Permit requirements. No project-specific comments were provided.

The Draft EIR summarized the Clean Water Act Section 404 Permit requirements on Page 3.4-8. The Draft EIR evaluated wetlands and jurisdictional features on Page 3.4-18. The Draft EIR concluded that no wetlands or jurisdictional features would be impacted and, therefore, no 404 Permits would be required.

Response to RWQCB-3d
The agency summarized Clean Water Act Section 401 Permit Water Quality Certification requirements. No project-specific comments were provided.

The Draft EIR summarized the Clean Water Act Section 401 Permit Water Quality Certification on Page 3.4-8. The Draft EIR evaluated wetlands and jurisdictional features on Page 3.4-18. The Draft EIR concluded that no wetlands or jurisdictional features would be impacted and, therefore, no 401 Permit Water Quality Certification would be required.

Response to RWQCB-3e
The agency summarized Waste Discharge Requirements and discharges to Waters of the State permitting requirements. No project-specific comments were provided.

The Draft EIR summarized the Porter-Cologne Water Quality Act on Pages 3.4-10 and 3.9-10, which governs waste discharge requirements. The Draft EIR evaluated wetlands and jurisdictional features on Page 3.4-18. The Draft EIR concluded that no wetlands or jurisdictional features would be impacted and, therefore, no waste discharge requirements would be required.

Response to RWQCB-3f
The agency summarized Dewatering Permit requirements. No project-specific comments were provided.

The Draft EIR discussed groundwater on Pages 3.9-5 through 3.9-7. Groundwater levels in the project vicinity have been reported at 80 to 100 feet below ground surface. Furthermore, aside from the flood control basin, neither Master Plan contemplates below ground facilities such as underground parking or basements. The flood control basin would be no more than 40 feet below ground surface and, thus, well above recorded groundwater levels. For these reasons, dewatering is not expected to occur.

Response to RWQCB-3g
The agency summarized the Limited Threat General NPDES Permit, which also applies to dewatering activities. No project-specific comments were provided.

Refer to Response to RWQCB-3f.

Response to RWQCB-3h
The agency summarized the NPDES Permit, which applies to waste discharges. No project-specific comments were provided.

Refer to Response to RWQCB-3e.

Response to RWQCB-4
The agency provided closing remarks. No response is necessary.

CHIEF EXECUTIVE OFFICE

Jody L. Hayes
Chief Executive Officer

Patrice M. Dietrich
Assistant Executive Officer

Raul L. Mendez
Assistant Executive Officer

STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE

February 3, 2021

Sent Via Email to jandrews@ci.patterson.us

Joel Andrews
City of Patterson
1 Plaza Circle | P.O. Box 667
Patterson, CA 95363

SUBJECT: ENVIRONMENTAL REFERRAL – CITY OF PATTERSON – BALDWIN MASTER PLAN / ZACHARIAS MASTER PLAN – NOTICE OF AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)

Mr. Andrews:

On December 23, 2020 Stanislaus County staff became aware the Baldwin Master Plan/Zacharias Master Plan Project Draft Environmental Impact Report (DEIR) was available for review beginning December 3, 2020. This letter is a formal request to the City of Patterson to re-notice the project and establish a new 45-day comment period to ensure all those affected by the project are notified and have the opportunity to comment.

Stanislaus County, through its Environmental Review Committee (ERC), commented on the Notice of Preparation on January 22, 2019; however, a search of our records indicate it did not receive notice the DEIR was available for review until January 15, 2021. It is understood Stanislaus Local Agency Formation Commission (LAFCO) also did not receive prompt notice of the DEIR's availability and has made a similar request. 1

County staff understand the significance of this request and only makes it after deliberation among our staff who are tasked with reviewing the DEIR. The County strives to be a good collaborator and we believe that ensuring that all affected parties were noticed pursuant to CEQA Guidelines Section 15087 will be beneficial to the community. An initial review of the DEIR indicates the County ERC will have comments on the topics included below, and County staff would like to meet with City staff to discuss the project. Initial review indicates County staff has concerns with:

<u>Agricultural and Forest Resources</u>

- The DEIR does not consider the long-term impacts of the agricultural land outside and adjacent to the Master Plan area.
- The DEIR does not provide specific information on the location of the proposed flood control basin and whether it will be dual use. A dual use flood control basin that incorporates people-intensive uses could have impacts to surrounding agricultural lands. 2

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ENVIRONMENTAL REFERRAL – CITY OF PATTERSON – BALDWIN MASTER PLAN / ZACHARIAS MASTER PLAN – NOTICE OF AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)
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Hydrology and Water Quality

- Subsidence impacts are not adequately evaluated. The analysis is based on the assumption that damaging subsidence could only occur at the Delta-Mendota Canal, but potential subsidence hazards are known to exist throughout the area underlain by the Corcoran Clay. The analysis is incorrectly based on the assumption that pumping for the project will occur in the existing wellfield when the proposed project wellfield is actually located in the Zacharias Master Plan area, which is much closer to the Delta-Mendota Canal. In addition, the analysis relies on modeling in the 2015 Operational Yield Study, which is acknowledged to be too coarse and generalized to assess the effects from development of a second wellfield northwest of the City. A more refined and locally specific model is needed to support the impact conclusions. 3a
- The impact analysis of Hydrology and Water Quality did not consider potential adverse effects the project could have on existing wells on County lands near the proposed well field. Impacts associated with well interference include increased pumping and maintenance costs, diminished well capacity, and in severe cases, wells going dry. As with subsidence impacts, a more refined local model is needed to assess the potential occurrence and extent of adverse impacts. 3b
- The DEIR fails to recognize the requirements of the Sustainable Groundwater Management Act that are relevant to the project. Specifically, the project must comply with Minimum Thresholds and Measurable Objectives that were adopted in the Groundwater Sustainability Plan (GSP) for the subbasin. Potential violation of these applicable standards could trigger a requirement for well spacing or extraction limitations. As such, an evaluation of the project's compliance with the Sustainability Indicators adopted in the GSP is needed to support analysis of the long-term adequacy of using groundwater as a proposed project water supply. 3c

Transportation/Traffic

- Mitigation Measure Trans-1a states that a Community Facilities District shall be formed by the Developer and City of Patterson to fund transportation projects. Due to the significant impacts to the County's transportation network, Stanislaus County shall be included in the development and approval of such a fee mechanism to ensure that future transportation needs can be properly mitigated. This includes, but is not limited to, the implementation of the Engineering News Record (ENR) Construction Cost Indices to account for future rises in construction costs. Project costs need to be estimated based on the implementation costs of the County and Caltrans. 4a
- The model printouts show an incorrect number of trips generated on Frank Cox Road, east of SR33, as well as a non-existent connection between Sycamore Ave and Cox Road. This traffic should be shifted to other parallel facilities, such as Grayson Road and SR33. Frank Cox Rd east of SR33 is an unimproved, rural access road, with an at-grade railroad crossing, which also has low clearance at the tracks. Cox Rd. is also an unimproved, rural access road. This error correction will have major impacts to the analysis provided. 4b

ENVIRONMENTAL REFERRAL – CITY OF PATTERSON – BALDWIN MASTER PLAN / ZACHARIAS MASTER PLAN – NOTICE OF AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)
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The ERC appreciates the opportunity to comment on this project. 5

Sincerely,

Patrick Cavanah
Sr. Management Consultant
Environmental Review Committee

PC:sm

cc: ERC Members

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Local Agencies

Stanislaus County Environmental Review Committee (ERC)

Response to ERC-1

The agency stated that it became aware the Draft EIR was circulating for public review on December 23, 2020. The agency requested that the City of Patterson re-notice the availability of the Draft EIR and establish a new 45-day review period. The agency also advised that Stanislaus LAFCO also did not receive notice pf the Draft EIR's availability.

Refer to Master Response 1.

Response to ERC-2

The agency referenced the Agricultural Resources section and asserted that the Draft EIR (1) did not consider the long-term impacts of agricultural land outside and adjacent to the Master Plan areas; and (2) did not provide a specific location of the proposed flood control basin and whether it would be dual use. The agency noted that a dual use basin could have impacts to surrounding agricultural land.

The agricultural lands north of the Zacharias Master Plan boundaries and those that surround the Baldwin Master Plan boundaries are within the City of Patterson General Plan's planning area. These areas are designated for low density residential use by the General Plan. The General Plan EIR addressed the conversion of these areas to non-agricultural use. In sum, this impact was disclosed previously and there is no legal basis for the Draft EIR to revisit this subject.

The location of the flood control basin was described on Page 2-10 and is shown on Exhibits 2-9a and 2-9b. It is on the north side of Zacharias Road, west of Baldwin Road. It is adjacent to land owned by Patterson Unified School District and would provide flood protection benefits to the proposed high school contemplated for that location. As described on Pages 2-8 and 2-9 and shown on Exhibit 2-9b, the basin would be dual-use owing to its location adjacent to the planned high school.

Regarding the potential for impacts to surrounding agricultural land, all adjoining land is within the City of Patterson General Plan's planning area and is contemplated to support urban development. The ultimate conversion of this land to non-agricultural use was disclosed in the City of Patterson General Plan EIR, which was certified in 2010.

Response to ERC-3a

The agency alleged that the Draft EIR's subsidence analysis is inadequate and does not account for a new wellfield that would be drilled within the Zacharias Master Plan. The agency also stated that the analysis relies on modeling from the 2015 Operational Yield Study, which is acknowledged to be too coarse and generalized. The agency stated that a more refined and locally specific model is needed.

The Draft EIR addresses potential impacts related to subsidence on page 3.6-10. The City of Patterson Water Master Plan found that groundwater supply is sufficient to meet demand at build-out, while still managing the groundwater sustainably. The Groundwater Sustainability Plan outlines specific thresholds and management actions related to subsidence that the City would be required

to address, should they be triggered. For these reasons, additional project-specific analysis is not required.

While the City anticipates the potential to construct new wells as part of their Water Master Plan, including ones in the northwest portion of the City and in the eastern portion of the City, there are no plans specific to this project for well development. The City currently (as of 2018) has pumping capacity for 7,550 AFY with about 3,318 AFY currently utilized. If the City pursues development of an additional well field or fields in the future, additional environmental analysis will be required to assess the potential effects at that time.

Response to ERC-3b
The agency stated that the Draft EIR's Hydrology and Water Quality section did not consider potentially adverse impacts on existing wells on County lands. Such impacts may include increased pumping and maintenance costs, diminished well capacity, and wells going dry.

The Operational Yield Study contained in the City's Water Master Plan found that the City could implement their selected supply strategy without impacting their current groundwater pumping infrastructure and without significantly impacting the use of groundwater resources in the area surrounding the City's sphere of influence. It is not clear from the Commenter's statement whether there are specific wells within the City's sphere of influence that are of particular concern, or whether they are generally suggesting a separate analysis. Given that the Water Master Plan found that implementation of the full future water supply scenario (11,147 AFY of total groundwater pumping in 2050; from Table 3.15-14 in the Draft EIR) would not significantly impact water users outside the City's sphere of influence, and that the Project's proportion of that demand is only about 19 percent, a project-specific analysis of drawdown impacts is not warranted.

Response to ERC-3c
The agency stated that the Draft EIR failed to recognize the requirements of the Sustainable Groundwater Management Act that are relevant to the project, specifically the Minimum Thresholds and Measurable Objectives set forth in the Northern & Central Delta-Mendota Regional Groundwater Sustainability Plan.

The Draft EIR, page 3.9-23, includes a discussion of the potential impacts to groundwater supply and recharge, with respect to sustainable management of the groundwater basin. The City's Water Master Plan (2018) analyzed the projected water usage for the City, (including estimated demand from the project), and found that sufficient supply is available and that expected water usage would not significantly impact groundwater resources in the subbasin. The project would obtain its water from the City, which is required to comply with the Minimum Thresholds and Measurable objectives outlined in the Groundwater Sustainability Plan. A separate analysis of those requirements specific to the Project's usage is not required, given that the Water Master Plan showed a sufficient sustainable supply for the City as a whole over the period evaluated.

The projected water budgets contained in the Northern & Central Delta-Mendota Groundwater Sustainability Plan include the proposed project in the expected future water use by the City. While the historic water budget and the projected water budget without the implementation of projects

indicated that the subbasin has, and will continue to, experience a downward trend in cumulative change in storage in both the Upper and Lower Aquifers, the analysis showed that implementation of projects identified in the Groundwater Sustainability Plan, including the City's stormwater capture and recharge project, would result in basin sustainability into the future under the assumptions of projected future water demands that include the demands of the proposed project.

Furthermore, the sustainable management criteria for the Subbasin was established based on observed historic trends. These trends showed that Upper Aquifer water levels rebounded in 2017 from their lowest recorded measurements (for most wells) in 2015. As such, the Minimum Threshold for Upper Aquifer wells was set at hydrologic low conditions or 2015 groundwater elevations. While groundwater elevations in the Lower Aquifer also rebounded in 2017, due to observations of inelastic land subsidence, Minimum Thresholds for this aquifer were set at 95% of the hydrologic low. As a Groundwater Sustainability Agency, the City is monitoring groundwater levels within its boundary on a regular basis and comparing those data against established numerical Minimum Thresholds in order to ensure the sustainability of the basin.

Response to ERC-4a
The agency referenced Mitigation Measure TRANS-1a and requested that the County of Stanislaus be included in the development and approval of the fee mechanism employed by the Community Facilities District that will oversee implementation of transportation improvements. The agency stated that the fee mechanism shall include Engineering News Record Construction Costs indices to account for future increases in construction costs.

The City of Patterson will involve the County of Stanislaus as appropriate in the development of the Community Facilities District. However, the City is reluctant to make any commitments about the details of the Community Facilities District (e.g., costs indices) at this point in the process due to the number of unknown factors.

Response to ERC-4b
The agency stated that the model printouts show an incorrect number of trips generated on Frank Cox Road east of SR-33, and a non-existent connection between Sycamore Avenue and Cox Road. The agency stated that these trips should be reassigned to parallel facilities. The agency noted that Frank Cox Road is unpaved with a low-clearance at-grade railroad crossing.

It should be emphasized that the model printouts showed raw model volumes; they are not the traffic forecasts used in intersection LOS analysis. The projected trips on Frank Cox Road and Cox Road used in the LOS analysis were generated using the NCHRP 255 Delta Method as indicated in the traffic report and not based on the raw model volumes. The model forecasted volumes were used to estimate growth in demand. Therefore, the potential errors described in the comments, plus any other discrepancies between base year model volumes and counts, were mitigated using the NCHRP 255 Delta Method.

The network geometry as shown in the model plot is not represented in the field. As is common practice, many traffic model networks do not contain all the details of local streets, and the StanCOG model employed a similar approach. For example, though there is no direct connection between Cox

Road and Sycamore Road, the connectivity is available via Condit Avenue, Vineyard Avenue and Loquat Avenue, as illustrated in the Google Maps screenshot as shown on Exhibit 3-2. Therefore, the model network correctly represented the connectivity or accessibility of the roadways in that area. The apparent "discrepancy" between network geometry and real streets did not affect the model forecasts.

The model assignment and distribution are based on the equilibrium methodology in the StanCOG model. The model assigns traffic on roadways based on several factors including volume-to-capacity ratio and shortest time. The methodology reflects decisions that drivers make daily regarding the available roadways providing access to their destinations. This decision-making process is further aided nowadays with the availability of online navigation maps which offer choices to drivers that were not available previously.

Lastly, both Frank Cox Road and Cox Road are paved. Frank Cox Road has an existing railroad grade crossing that does not have any obstructions that limit the types of vehicles that can cross it. To the contrary, Frank Cox Road is used by heavy vehicles (i.e., tractor trailers) serving the West Side Hulling Associates facility, indicating that it is suitable for use by all types of vehicles. Both roadways would be used by drivers based on congestion on other roadways (i.e., SR-33).

Response to ERC-5
The agency provided closing remarks. No response is necessary.

Stanislaus
LAFCO
LOCAL AGENCY FORMATION COMMISSION

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January 14, 2021

Joel Andrews, City Planner
City of Patterson Community Development Dept
PO Box 667
Patterson, CA 95363

SUBJECT: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE BALDWIN & ZACHARIAS MASTER PLANS

Dear Mr. Andrews:

Stanislaus LAFCO respectfully requests an extension of the review period for the Draft Environmental Impact Report (Draft EIR) for the Baldwin and Zacharias Master Plans. Although LAFCO is a Responsible Agency, we were not provided notice of the Draft EIR's availability and have not had the appropriate time to fully review and provide comments to the City. Our agency was alerted to the document's existence by an inquiry from a property owner in the area.

Following our inquiries with the City and other local agencies, including the County, it appears that LAFCO was not the only agency that did not receive notice of the document's availability for review. This is of concern to LAFCO as our agency will rely on the adequacy of City's CEQA documentation, including the appropriate consultation with responsible and affected agencies, when considering any future application to LAFCO for this project. 1

The appropriate remedy is for the City to re-notice the Draft EIR to all affected and responsible local agencies, including those agencies that responded to the Notice of Preparation, with a 45-day extension for public review pursuant to Public Resources Code Section 21091.

We appreciate the City's consideration and look forward to providing comments during an extended public review period. If you have any questions, please contact our office at (209) 525-7660.

Sincerely,

Sara Lytle-Pinhey
Executive Officer

cc: Alice Mimms, LAFCO Counsel

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Stanislaus Local Agency Formation Commission (January 14, 2021) (LAFCO.1)

Response to LAFCO.1-1

The agency requested an extension of the Draft EIR review period because it did not receive notice that the document was available for public review.

Refer to Master Response 1.

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February 3, 2021

Sent by Email to: jandrews@ci.patterson.ca.us

Joel Andrews, City Planner
City of Patterson Community Development Dept
PO Box 667
Patterson, CA 95363

SUBJECT: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE BALDWIN & ZACHARIAS MASTER PLANS

Dear Mr. Andrews:

The Stanislaus Local Agency Formation Commission (LAFCO) received notice of this project from the City of Patterson on January 15, 2021 that requested comments be submitted by February 3, 2021. LAFCO had previously been made aware of the Draft Environmental Impact Report (DEIR) by a landowner in the area and reached out to the County and an irrigation district in the area who also stated they did not receive notice of the project. LAFCO sent a letter to the City dated January 14, 2021 requesting re-notice to all affected and responsible agencies of the availability of the DEIR with a 45-day review period. While it remains unclear whether all affected and responsible agencies were provided notice of the DEIR or whether the City will offer additional time for review, this letter attempts to summarize our concerns based on an initial review of the DEIR. 1

The City's proposal includes a large-scale annexation of nearly 1,300 acres and a simultaneous sphere of influence expansion of approximately 1,160 acres. LAFCO will review the City's proposal as a Responsible Agency pursuant to the California Environmental Quality Act (CEQA), 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). 2

<u>Sphere of Influence Policies</u>

A sphere of influence is defined by Government Code §56425 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, typically amended in conjunction with a comprehensive planning document, such as a 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 (i.e. 0-5 years). 3a

The current project proposes a simultaneous sphere of influence expansion of 1,160 acres and annexation of 1,300 acres. The project description states build-out is expected over a twenty- 3b

year period but does not describe how this would be consistent with LAFCO's policies relative to orderly growth, long-term planning, and the sphere of influence. The document does not clearly substantiate why the entirety of the area needs to be added to the sphere of influence and simultaneously annexed if development is not imminent. 3b CONT

Agricultural Resources

The DEIR discusses the City and County's policies regarding agricultural resources. Stanislaus LAFCO also has an adopted Agricultural Preservation Policy that requires cities to prepare a Plan for Agricultural Preservation. The Plan for Agricultural Preservation is required to include a detailed analysis of the direct and indirect impacts to agricultural resources on the site and surrounding area, 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. 4a

It is noted that the City proposes Mitigation AG-1 for the preservation of important agricultural land at a 1:1 ratio. The mitigation anticipates that the City may adopt a policy allowing for this mitigation to be satisfied using in-lieu fees. The Commission's Agricultural Preservation Policy includes a minimum formula intended to ensure that proposed in-lieu fees fully fund the costs associated with acquiring and managing an agricultural conservation easement. The Policy requires that should a fee be less than the formula, evidence must be provided demonstrating that the lesser fee amount will in fact achieve the agricultural mitigation goal. The City is encouraged to strengthen the language in Mitigation Measure AG-1 to ensure sufficiency of an in-lieu fee amount. 4b

Page 3.2-11 of the DEIR states that there are six parcels in the annexation area with active Williamson Act contracts. As a point of clarification, Williamson Act contracts are not "automatically terminated" upon annexation. The City will need to specify whether or not it intends to succeed to the contracts during adoption of a resolution of application to LAFCO. Should the City not succeed to the contracts, the City must file the appropriate documentation to terminate the contracts when LAFCO records the annexation documents. 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 properties will no longer receive any property tax incentive, regardless of whether the land remains in agricultural production. 4c

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. Similarly, the City of Patterson's General Plan Policy LU-1.7 identifies vacant and underutilized lands in the City limits as being first priority and any areas outside that or the sphere of influence as the last priority. The DEIR's analysis of this policy simply notes that the Master Plans are consistent with the last priority as there are no other properties in the city limits that are large enough for the Master Plan. Missing from this analysis is a discussion of what acreage *is* currently available in the City's limits and Sphere of Influence. In the last two decades, the City of Patterson has annexed a total of 3,277 acres, including the Villages of Patterson (703+/- acres for residential development), the West Patterson Business Park (940+/- acres for industrial development with a portion recently rezoned for residential), and the 5a

Arambel-KDN business park (1,120+/- acres for industrial and commercial development). Large swaths of land within the City Limits remain undeveloped. The City must clearly demonstrate its need for additional acreage, consistent with its General Plan priorities and the LAFCO's policies. 5a CONT

Table 3.10-2 in the DEIR contains an analysis relative to factors listed in Government Code §56668. LAFCO reviews proposals in light of the entirety of the Cortese-Knox-Hertzberg Local Governmental Reorganization Act of 2000 (Government Code §56000 et seq) as well as the Commission's own adopted policies and procedures. The Commission will also consider and make determinations regarding factors for reviewing a Sphere of Influence (§56425), a Municipal Service Review (§56430), and consistency with the Commission's adopted Agricultural Preservation Policy and Sphere of Influence policies. 5b

Project Alternatives

The Project Alternatives should include a reduced footprint for the proposal to align more closely to realistic timeframes for development. While an analysis of project alternatives certainly cannot be expected to include every possible alternative, a reduced footprint conforming to Phase 1 of the Zacharias Master Plan, as identified in other portions of the DEIR, is a reasonable expectation that is noticeably absent from the document and should be considered. 6

Groundwater Impacts

The City relies on groundwater as its sole source of drinking water. Documents prepared for the City's previous annexation cautioned that a sustainable or safe yield for groundwater had not been determined and that increased urbanization will have a negative impact. Page 3.9-7 of the DEIR's Hydrology and Water Quality section states that, "despite periods of wet conditions where recharge outpaced extractions, an overall declining trend in groundwater storage was observed in both the upper and lower aquifers." The irrigation districts in the area have previously identified that the area currently receives surface water for irrigation that serves as groundwater recharge in the area. While the DEIR describes the intent to capture stormwater for recharge, it does not compare these estimates to the amount of existing recharge from surface water that would no longer be available due to the project. 7

Wastewater

An additional consideration of LAFCO is the ability of the City to provide services to accommodate the proposed project in addition to growth within its existing City limits. The DEIR indicates the City's Water Quality Control Facility was approved for an expansion in 2010 that would allow for a capacity of up to 3.0 million gallons per day (mgd), based on current regulations. The DEIR also notes on page 3.15-24 that when considering the City's current dry weather demands (1.65 mgd) and capacity already committed to other projects within the City limits, the wastewater facility would be at capacity (2.982 mgd) *without* the proposed project. Additionally, the City's Wastewater Master Plan identifies that even with the current expansion of the wastewater facility, its overall capacity will be limited by the disposal capacity of its percolation ponds. What is the timing of the City's current expansion efforts at the wastewater facility and what future plans does the City have to expand capacity? How will the City ensure that plant capacity is available for both committed developments in the existing City limits and the proposed project in a timely manner? 8

LAFCO's response to the Notice of Preparation for this project dated January 22, 2019 described additional requirements in anticipation of the City's application. These include documentation of a City-County agreement pursuant to Government Code §56425(b) and preparation of an update Municipal Service Review for the City. We look forward to continued conversations regarding this project, as well as the City's review and response to affected special districts in the area. 9

If you have any questions, please contact our office at (209) 525-7660.

Sincerely,

Sara Lytle-Pinhey

Sara Lytle-Pinhey
Executive Officer

cc: LAFCO Commissioners
Alice Mimms, LAFCO Counsel

Stanislaus Local Agency Formation Commission (February 3, 2021) (LAFCO.2)

Response to LAFCO.2-1
The agency reiterated its request for an extension of the Draft EIR review period.

Refer to Master Response 1.

Response to LAFCO.2-2
The agency noted that it will act as a Responsible Agency for the proposed annexation and cited its statutory authority.

Stanislaus LAFCO was listed as a Responsible Agency on Draft EIR Page 2-16. The annexation was described on Draft EIR Page 2-14.

Response to LAFCO.2-3a
The agency described the Government Code Section 56425 definition of a Sphere of Influence (SOI) and noted that annexation of lands with the primary SOI may only be approved when development is imminent (0 to 5 years).

Refer to Response to LAFCO.2-3b.

Response to LAFCO.2-3b
The agency stated that the proposed project would simultaneously expand the City of Patterson's SOI by 1,160 acres and the city limits by 1,300 acres, and also noted that the Draft EIR indicates that Master Plan buildout would occur over a 20-year period. The agency stated that the Draft EIR did not substantiate how these proposed actions would be consistent with LAFCO policies related to orderly growth and long-term planning or why the entire area needs to be added to the SOI and city limits if development is not imminent.

The Draft EIR provided a comprehensive consistency analysis with LAFCO policies in Table 3.10-2 (Pages 3.10-44 through 3.10-59). The analysis found that the entire Baldwin and Zacharias Master Plan areas needed to be annexed in order to ensure that urban services and infrastructure could be provided. The Master Plans propose roadways, water, sewer, storm drainage, schools, parks, and an off-site flood control basin. As Draft EIR Exhibit 2-13 shows, Phase 1 would consist of the areas immediately adjacent to the Patterson city limits and Phase 2 would consist of the outlying areas. However, as a practical matter, infrastructure needed to serve both phases would be located throughout the Master Plan boundaries. Thus, annexing the entire area would be consistent with sound planning principles because it would allow for the timely and efficient development of infrastructure improvements. Moreover, there is a precedent for this approach, as evidenced by the West Patterson Business Park / Patterson Gardens, the Villages at Patterson, and the Arambel Business Park, which were all annexed in their entirety and built out incrementally.

Response to LAFCO.2-4a
The agency noted the requirements of the Agricultural Preservation Policy, which requires an analysis of direct and indirect impacts to agricultural resources, a vacant land inventory, and absorption study.

The Draft EIR evaluates direct and indirect impacts to agricultural resources in Section 3.2, Agricultural Resources. The agency's specific comments on that analysis are addressed in Response to LAFCO.2-4b and LAFCO.2-4c.

Response to LAFCO.2-4b
The agency referenced Mitigation Measure AG-1, which requires preservation of Important Farmland at no less than 1:1 ratio. The agency encouraged the City to strengthen the mitigation measure to ensure there is a sufficient in-lieu fee amount in accordance with the Agricultural Preservation Policy.

Mitigation Measure AG-1 provides two options for mitigating the loss of farmland: (1) the direct preservation through an irrevocable instrument at no less than a 1:1 ratio or (2) payment of fees into an adopted fee program that would preserve farmland at no less than a 1:1 ratio. Under either approach, farmland would be preserved at no less than a 1:1 ratio. The City believes this approach establishes a clear performance standard but also allows flexibility for implementation.

Response to LAFCO.2-4c
The agency referenced a statement on Page 3.2-11 regarding the automatic termination of active Williamson Act contracts upon annexation and noted that the City would need to specify whether or not it intends to succeed to the contracts during the adoption of resolution of application to LAFCO.

The Draft EIR evaluated the 'worst case' scenario for Williamson Act contracts, which is termination upon annexation. As a practical matter, the City may choose to succeed to the contracts. Ultimately, this will be a policy decision made by the Patterson City Council. Should it not, the City will file the appropriate paperwork with LAFCO.

Response to LAFCO.2-5a
The agency noted that LAFCO policy and City of Patterson General Plan Policy LU-1.7 identify vacant underutilized land within the city limits as the first priority for development followed by areas outside the city limits or SOI. The agency noted that the Draft EIR's analysis of Policy LU-1.7 noted that there are no properties within the city limits that are large enough to support the Master Plans but did not include an assessment of what acreage is currently available within the City limits or SOI. The agency noted that the City has annexed 3,277 acres during the last two decades and the City must clearly demonstrate a need for additional land.

The City of Patterson's most recent major annexation was the Arambel Business Park in 2013, which totaled 1,120 acres for non-residential use. The Restoration Hardware Distribution Center was developed soon thereafter, showing that there was market demand for additional non-residential acreage. The Arambel Business Park was one of eight sites considered for a 1.3 million square foot household of manufacturing facility in 2016. Because the Arambel Business Park was the only one of the eight sites that had completed both the environmental review and annexation process, it was the only site to advance to the final round. Although the manufacturing facility did not come to fruition, it demonstrated that there is considerable interest in shovel-ready sites within incorporated cities. As a postscript, the manufacturing company advised the City that it "didn't have enough rooftops," signifying that Patterson needed additional residential growth before it could support a facility of that size.

The West Patterson Business Park was annexed in 2003 and has steadily built out. The November 2020 approval of the Baldwin Ranch North Master Plan[1], which involved rezoning land within the West Patterson Business Park to residential use, demonstrated that there is unmet demand for residential development within the city limits. While the Baldwin Ranch North site was well suited for residential use because of its adjacency to the Patterson Gardens neighborhood and the planned Baldwin Ranch Master Plan, all of the undeveloped non-residentially zoned lands to the west and north are not similarly well-suited because of the lack of schools, parks, and other residential amenities. Additionally, many of these lands are entitled but not yet developed (e.g., West Ridge Business Park), signifying that they are not available despite being vacant.

Additionally, the Villages at Patterson Project on the east side of Patterson was the last major residential annexation and occurred more than 12 years ago. The Villages at Patterson is under construction and, therefore, that land is not available.

The remaining undeveloped lands within the Patterson city limits consists of small, in some cases odd-shaped, parcels. Many of these sites are already entitled for development, and are best suited for smaller, infill residential and non-residential projects.

In terms of market trends, there is significant demand in Northern California for high cube warehouse, particularly for e-commerce. The I-5 corridor between Sacramento County and Stanislaus County has seen significant high cube warehouse development activity during the past decade. Furthermore, the COVID-19 Pandemic has driven greater interest in traditional lower density single-family residential housing options away from large, dense cities. Patterson is well positioned to benefit from both of these trends because of its proximity to I-5, the availability of shovel-ready sites, and its more affordable price points.

In sum, the development activity that has occurred in the West Patterson Business Park, Arambel Business Park, and Villages at Patterson Project demonstrates that there is market demand for large, shovel-ready sites for both residential and non-residential use. The City has been judicious in expanding its boundaries during the past two decades and has only done so when applicants have presented well thought-out plans for development.

Response to LAFCO.2-5b
The agency noted that Draft EIR Table 3.10-2 provides a consistency analysis with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and stated that LAFCO will make its own determination regarding consistency. No response is necessary.

Response to LAFCO.2-6
The agency stated that the Draft EIR's alternatives analysis should include a reduced footprint alternative that reflects Phase 1 of the Zacharias Master Plan.

For the reasons explained in Response to LAFCO.2-3b, the Zacharias Master Plan proposes roadways, water, sewer, storm drainage, schools, parks, and an off-site flood control basin that can only work

[1] Baldwin Ranch North consists of 445 dwelling units and 300,000 square feet of non-residential uses. The applicant anticipates breaking ground in 2021.

with the entirety of the Master Plan area. Thus, a reduced footprint alternative that reflects only Phase 1 of the Zacharias Master Plan would not constitute a feasible alternative because it could not be developed without the infrastructure and public facilities required for Phase 2.

Response to LAFCO.2-7

The agency noted that the City of Patterson relies entirely on groundwater and that the Draft EIR indicated that there was an overall declining trend in groundwater storage in the upper and lower aquifer. The agency stated that the Draft EIR described the intent to capture stormwater for recharge but did not compare it to existing recharge from surface water that will no longer be available.

As noted on Page 3.9-24, existing water demand within the Master Plan areas is estimated at 5,384 acre-feet / year, with agricultural irrigation representing 5,370 acre-feet / year (99 percent). Surface water deliveries ranged from 750 to 2,300 acre-feet / year between 2009 and 2019 (13 to 43 percent of total demand). Thus, groundwater is the primary source of water within the Master Plan areas. While surface water deliveries provide some recharge benefit (along with precipitation), groundwater application to farmland is the single largest source of recharge.

The Draft EIR concluded on Page 3.9-26 that the proposed project would (1) reduce pumping from the aquifer; (2) reduce recharge to the upper aquifer but at a rate lower than the reduction in pumping; (3) increase usage of potable water but in a sustainable manner; and (4) increase recharge to the lower aquifer in a manner that would help offset the increase in pumping.

In sum, the proposed project would be expected to have a positive impact on groundwater recharge because of the net reduction of groundwater withdrawal and net increase in direct recharge to the lower aquifer.

Response to LAFCO.2-8

The agency noted the Draft EIR's discussion of wastewater treatment capacity and planned expansions of the City's Water Quality Control Facility. The agency inquired about the timing of the planned expansions and if it will provide capacity for existing commitments and the proposed project.

Wastewater was addressed on Pages 3.15-22 through 3.15-24. The City has acquired the land and completed the environmental review process for the Phase 3 expansion of the Water Quality Control Facility, which would increase treatment capacity to 3.5 million gallons per day (mgd). The City has initiated the final design for the expansion, which would be largely financed by projects under construction, including the Village at Patterson Project and the approved Baldwin Ranch North Master Plan. Thus, it is a reasonable expectation that the Phase 3 expansion will be online by 2024, which would be the earliest possible date that the first phase of the proposed project would be completed.

On a broader note, the City of Patterson recognizes that the need and funding for the major infrastructure projects contemplated by the City's General Plan and utility master plans are contingent on new development projects being approved and developed. Likewise, in the absence of approved development projects, it would be both growth-inducing and an unwise use of public funds to invest in additional treatment capacity or in the development of the South County Corridor.

Response to LAFCO.2-9

The agency referenced its January 2019 NOP comment letter and noted application requirements including a City-County agreement and an updated Municipal Service Review.

The City is aware of these requirements and will submit these documents when the LAFCO application is filed.

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HERUM \ CRABTREE \ SUNTAG
ATTORNEYS

Jeanne M. Zolezzi
jzolezzi@herumcrabtree.com

January 27, 2021

VIA EMAIL

Mr. Joel Andrews, City Planner
City of Patterson
1 Plaza Circle, P.O. Box 667
Patterson, CA 95363
Email: JAndrews@ci.patterson.ca.us

Re: *Patterson Irrigation District Comments about the Draft Environmental Impact Report for Baldwin Master Plan / Zacharias Master Plan Project – Dated December 3, 2020 (State Clearinghouse Number: 2018122052)*

Dear Mr. Andrews:

This office represents Patterson Irrigation District, the Patterson Irrigation Groundwater Sustainability Agency (collectively, **PID**) West Stanislaus Irrigation District and the West Stanislaus Irrigation Groundwater Sustainability Agency (collectively, **WSID**), and submits these written comments on the draft Environmental Impact Report (**DEIR**) for the Baldwin Master Plan and Zacharias Master Plan projects (collectively **Project**), dated December 3, 2020. PID and WSID (collectively, the **Districts**) appreciate the opportunity to offer these comments concerning the DEIR prepared and the comments are presented to improve the statutory mandated disclosure of information and data from the DEIR and to improve communication between the Districts and the City of Patterson (**City**). 1

BACKGROUND

The California Environmental Quality Act (**CEQA**) is to be expansively interpreted in order to provide maximum evaluation and consideration of potential direct and indirect environmental effects of a proposed project. Title 14 California Code of Regulation § 15003(f) [hereinafter **CEQA Guidelines**]; *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259. In keeping with this expansive statutory mandate the "EIR requirement is the heart of CEQA." CEQA Guidelines § 15003(a); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795. 2

More specifically, an Environmental Impact Report (**EIR**) must consider both direct and indirect environmental effects (CEQA Guidelines § 15064(e)) including secondary environmental effects resulting from direct economic effects. The expansive interpretation of this rule was presented in *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1205-1206

(*Bakersfield*) and illustrates the meaningful relationship between socio-economic direct effects to secondary or indirect environmental effects:

> Guidelines section 15131, subdivision (a) provides, "An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes in turn caused by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes."
>
> Case law already has established that in appropriate circumstances CEQA requires urban decay or deterioration to be considered as an indirect environmental effect of a proposed project. The relevant line of authority begins with *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 217 Cal.Rptr. 893 (*Bishop*). There, the appellate court held that adoption of multiple negative declarations for different aspects of the same large regional shopping center violated CEQA. (*Id.* at p. 167, 217 Cal.Rptr. 893.) The court also agreed with appellant that on remand "the lead agency must consider whether the proposed shopping center will take business away from the downtown shopping area and thereby cause business closures and eventual physical deterioration of downtown Bishop." (*Id.* at p. 169, 217 Cal.Rptr. 893.) Citing Guidelines section 15064, the court found that the lead agency had an affirmative duty to consider whether the new shopping center would start an economic chain reaction that would lead to physical deterioration of the downtown area. (*Id.* at p. 170, 217 Cal.Rptr. 893.) Therefore, "[o]n remand the lead agency should consider physical deterioration of the downtown area to the extent that potential is demonstrated to be an indirect environmental effect of the proposed shopping center." (*Id.* at p. 171, 217 Cal.Rptr. 893.)

2 CONT

Accordingly, in *Bakersfield Citizens* the socio-economic impact of store closures required the two EIRs to study in depth the potential that this direct non-environmental effect could start a "chain of events" leading to urban decay, a recognized indirect environmental effect.

POTENTIAL INTERFERENCE WITH DISTRICTS' LATERALS AND INFRASTRUCTURE

Section 2.2.1 of the DEIR proposes constructing a new east-west connection to Ward Avenue and State Route 33 within the Zacharias Master Plan. The section acknowledges "right-of-way acquisition would be required" to construct the roadway as it spans four lanes between SR 33 and the PID canal (Lateral M). The new connector would cross the PID Canal, to the north of Ivy Avenue, intersect with Ward Avenue and connect to SR-33 to the east. The canal rests on real property PID owns in fee, and PID must ensure no construction is undertaken or rights granted to the City of Patterson for this road absent advance consultation with and approval by PID. PID's ease of access to the lateral canal in order to perform maintenance may be impaired if the City is granted a blanket right-of-way to install utilities or other improvements. The potential environmental effects caused by the Project's action to impair, frustrate or delay repairs or the construction of necessary improvements is omitted from the DEIR. In addition, the DEIR did not

3a

evaluate potential feasible mitigation measures that could be imposed to reduce the significance of this environmental effect. As such, PID asks that the City not engage in any decision-making regarding activities to be conducted on, near, or affecting the PID canal without prior consultation and written authorization from the District or to otherwise make irrevocable commitments based on an expectation that an easement will be granted by PID to the City of Patterson. PID points out this potential conflict of competing land uses is not identified nor addressed in a meaningful manner in the draft environmental impact report. In particular a disruption caused by conflicting land uses could result in a chain of events leading to the loss of productive agricultural crops and land.

3a CONT

Similarly, Section 2.2.1 of the DEIR also proposes a 30-foot wide trail corridor to be constructed along the east side of Baldwin Road, containing the WSID Lateral 5-South Canal. Like PID, WSID owns the property containing the canal in fee title and thus seeks to ensure the City does not engage in any decision-making regarding activities to be conducted on, near, or affecting the WSID canal in connection with the trail corridor without prior written authorization from the District or to otherwise make irrevocable commitments based on an expectation that an easement will be granted by WSID to the City of Patterson. WSID points out this potential conflict of competing land uses is not identified nor addressed in a meaningful manner in the draft environmental impact report. In particular a disruption caused by conflicting land uses could result in a chain of events leading to the loss of productive agricultural crops and land, discussed more thoroughly in Appendix A which analyzes the goals of the City of Patterson's General Plan.

3b

Lastly, Exhibit 2-10(a) denotes the potable water master plan for the Zacharias project and shows many of the proposed project water mains intersect both PID and WSID canals. As above, PID and WSID ask that the City not engage in any decision-making regarding activities to be conducted on, near, or affecting the PID canal or WSID canal without prior written authorization from the relevant District(s). Such activities include the relocation of such canals underground as pipelines, as discussed in DEIR Section 2.2 (Page 2-13), and any possible changes to canal alignments. Moreover the DEIR dispenses with any analysis of the potential land use conflicts or physical changes to the environment due to the intersection of these two competing uses at the same geographic location. The DEIR fails as an informational document by omitting any mention of this situation and by failing to consider in sufficient detail the consequences thereof that the staff of WSID and PID as experts in such water conveyance matters conclude is a significant environmental effect that must be addressed in the DEIR.

3c

In sum, the Districts insist the EIR satisfy its duty to provide relevant and important information about potential physical changes to the environment that may be directly or indirectly caused by the Project. The current DEIR is deficient in part because it omits any meaningful discussion or analysis of the potential conflicts created by action undertaken by either the Project proponent or by the City of Patterson regarding the lateral, canals, crossings, or other infrastructure owned or operated by the Districts, without fully mitigating the potentially significant environmental consequences. Potential conflicts include drastic elevation changes caused by excavation and grading activities or construction activities having significant adverse impacts on District facilities, and adverse impacts on stormwater runoff. Mitigation may include, in part, the need for discretionary encroachment permits, easements, or other permits or permission that implicate other land related issues. None of these reasonably anticipated governmental actions or the feasible mitigation measures that should attach to these decisions is evaluated in any level of detail in this DEIR. In addition, there are District facilities that may be impacted by the Project that are not mentioned or addressed in the EIR. The Districts will be processing such reasonably

3d

anticipated permit application and will be confronted with an EIR that did not identify nor study the significant environmental effects. 3d CONT

This deficiency also renders the Project Description legally insufficient as a matter of law meaning that the EIR process has not occurred in a manner required by law. CEQA Guideline section 15124(d)(1)(A) and (B) requires a legally sufficient project description in a draft EIR to list the agencies and the permits and other approvals required to implement the project. Indeed, it is not the responsibility of an effected District to anticipate all potential impacts of a proposed problem but instead this statutory responsibility is imposed on a project developer. 3e

Also, and independently, CEQA Guideline section 15124(d)(1)(C) requires a draft EIR to "integrate" the CEQA review "with these related environmental review…requirements…[t]o the fullest extent possible." This draft EIR dispenses with this element of a legally sufficient EIR by omitting "these related environmental review…requirements" and making no showing why such related reviews were not possible. 3f

USE OF GROUNDWATER AND GROUNDWATER RECHARGE ISSUES

The DEIR does not address the fact that the demand for potable water will exceed Patterson's ability to sustainably supply water from pumping water out of the aquifer, creating significant environmental effects that are not studied and evaluated in the draft EIR. 4a

1. INADEQUATE PROJECT DESCRIPTION.

The Project Description in the EIR, and the existing water demands analyzed in the Water Supply Assessment (WSA) for the Project state:

> Existing water demands in the Project area are almost entirely non-potable, agricultural demand which are supplied by shallow (above-Corcoran) groundwater wells.

This statement is simply false. The Districts have previously provided the City with delivery data for the project area showing almost exclusive use of surface water for agriculture irrigation. This serious inexcusable error renders the Project Description legally insufficient as a matter of law. CEQA Guideline section 15124(d)(1)(A) and (B) requires a legally sufficient project description in a draft EIR. The project description must contain enough information so that the impact analysis contains a meaningful assessment of the project's impacts. In s*topthemilleniumhollywood v. City of Los Angeles,* (2019) 39 Cal.App.5th 1, the Second District Court of Appeal held an EIR was invalid for lack of an "accurate, stable, and finite" project description. The Appellate Court, relying on *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, held "an accurate, stable and finite project description [is] the *sine qua non* of an informative and legally sufficient EIR." Here, the Project description was "inconsistent" for failing to identify a preferred scenario and "fail[ed] to describe the siting, size, mass, [and] appearance of any building proposed to be built at the Project site." As such, it failed to provide decision-makers or the public with any "design features" or "final development scenario" to evaluate in the decision-making process. The project description in the DEIR fails to acknowledge accurate existing conditions and cannot legally or accurate measure environmental impacts. The DEIR fails to acknowledge that the project will terminate existing surface water use on the project area and create an increased demand for groundwater. Consequently, by definition it fails to adequately address the significant environmental impacts 4b

caused by increasing City reliance on groundwater in light of SGMA sustainability goals and issues caused by land subsidence. 4b CONT

2. SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT ON GROUNDWATER

Section 2.2.1 of the DEIR states that the City of Patterson will provide potable water service to the entire Plan area via extraction from the sub-Corcoran lower aquifer. The City of Patterson presently draws all of its supply of potable water from the lower aquifer. The DEIR discloses that the City anticipates developing new well heads within the Zacharias planning area to extract more potable water from the lower aquifer to to meet increased demands from this new development, as compared to existing conditions. Total existing water demand for the Project area is estimated to be 5,384 acre feet per year (**AFY**); the DEIR estimates the total water demand of the project at full build-out to be 2,159 AFY, resulting in a net reduction compared to existing conditions. However, this comparison is invalid and inaccurate because of the erroneous project description. Contrary to what is stated in the DEIR, the existing demand of 5,384 at water is currently provided by surface water delivered by the Districts; therefore, there will not be a net reduction in groundwater pumping but rather a reduction of 5,384 AFY of surface water use with associated recharge, and a net increase in 2,159 AFY of below Corcoran clay layer pumping to meet project demands. 4c

A. Subsidence. The Northern & Central Delta-Mendota Region GSP identified lower aquifer groundwater extractions as one of the key causes of inelastic land subsidence in the Delta-Mendota subbasin. The City of Patterson relies solely on groundwater from the lower aquifer for its potable water supply and plans to increase that reliance via Project extraction. The City is located directly east of the Delta Mendota Canal where land subsidence occurred at a rate of 0.22 feet/year during the most recent drought, thus reinforcing the connection between lower aquifer groundwater pumping and inelastic subsidence. Land subsidence has the potential to impact infrastructure of statewide and local importance, causing serious operational, maintenance, and construction design issues. In sum, this draft EIR does not adequately address the direct and indirect significant environmental impacts caused by pumping additional water from the lower aquifer. 4d

B. Sustainability. The City elected to become a Groundwater Sustainability Agency (**GSA**) and joined with several GSAs to adopt a Groundwater Sustainability Plan (**GSP**) for the northern and central portions of the Delta Mendota Subbasin (Basin No. 5-022.07). The City adopted the GSP on December 17, 2019. Once adopted, the Northern & Central Delta-Mendota Region GSP governs sustainable groundwater management actions within the jurisdictional boundaries of each GSA, including the City.

The GSP, which the City adopted, finds the sustainable yield of the lower aquifer is 0.33 AFY per acre. The City presently consists of 3,840 acres, meaning it can at maximum sustainably extract 1,267.2 AF of water/year from the lower aquifer for potable use. After annexation, the Baldwin and Zacharias Master Plans would add 1,290 acres to the City; under the GSP the City would then be able to sustainably extract 1,672.11 AF of potable water/year. The City's total potable water demand as of 2018 was 3,102 AF/year, already substantially above the sustainable amount as determined by the GSP. The DEIR further predicts a projected potable water demand for both projects at full buildout to be 1,560 AF/year. The result would be a total potable water demand from the lower aquifer for the City of Patterson of approximately 4,662 AF/year. This amount far exceeds what the City's own GSP has found to be sustainable, and such pumping cannot be offset by any supposed recharge, discussed below. In short, after annexing the Project, the demand for 4e

potable water will greatly exceed the amount of groundwater pumping that is sustainable from the aquifer as determined by the GSP, and adopted by the City. 4e CONT

C. Inadequate Recharge. Section 3.9.6 of the DEIR states the City plans to capture storm water and recharge the lower aquifer in an attempt to mitigate the City's proposed increased pumping from the lower aquifer resulting from the Project. However, the City provides no information to substantiate the amount and rate of percolation recharge nor evidence showing the lower aquifer will receive the recharge to offset Project extractions. Groundwater studies conducted by Kenneth D. Schmidt and Associates Groundwater Consultants (KSA) have thus far only *estimated* the natural inflows of the two underlying aquifers to be upwards of 12,500 AF/year. However, despite periods of wet conditions with recharge outpacing extractions, an overall declining trend in groundwater storage has been observed in both the upper and lower aquifers (GSP 5-119). Even if such recharge were plausible, it is not sufficient to offset the unsustainable pumping proposed by the City both with and without the Project. 4f

It does not appear that recharge efforts proposed in the DEIR are feasible. First, there is insufficient rainfall on the Project land to result in a 1-to-1 ratio of recharge to water extracted. As stated on its website, the City receives an average of 12 inches of rainfall annually (https://www.ci.patterson.ca.us/255/Locationclimate#:~:text=The%20City%20of%20Patterson%20and,upper%2090s%20during%20summer%20months), insufficient to offset total groundwater extraction necessary to provide the 1,560 AF/year potable water that the DEIR estimates to be needed for the Project. In order to recharge 1,560 AF/year, the City would have to recapture water from other areas and have the infrastructure and financial capability to transport such water to the recharge facilities. Presently, the DEIR estimates potential storm water runoff from the project site to be 1,185 AF/year, to be pumped to the recharge basin from the project site. However, the DEIR provides no data, information, or support for such a claim, no information on where the storm water runoff would be obtained, how it would be collected, no information on the infrastructure needed to convey the water, its cost or the environmental impact of its construction, no information on the location, operation, cost, or environmental impact of recharge basins required to recharge the unidentified storm water. 4g

In addition to onsite recharge, a water management plan commissioned by the City estimates the potential annual yield of storm water capture from Del Puerto Creek to be approximately 1,700 AF/year. Even assuming such actions were demonstrated to effectively recharge, this additional recharge would still be insufficient to offset the potable water demand of the City of Patterson, and further has yet to undergo environmental review or financial analysis. Most importantly, however, the fatal blow to the City's proposed recharge efforts, the City has no water right to storm water from Del Puerto Creek, and no plans to obtain such a right from the State Water Resources Control Board. 4h

Moreover, the proposed Del Puerto Canyon Reservoir plans to submit an application to the State Board to divert the same flow from Del Puerto Creek for storage purposes. The draft EIR for the Del Puerto Canyon Reservoir clearly states "implementation of the proposed reservoir would reduce flows in Del Puerto Creek and thus result in a reduction of flows available for the City of Patterson storm water capture and recharge project." While the Del Puerto Canyon EIR discusses mitigation, the impact of the reservoir on the City's purported recharge must be addressed. 4i

Lastly, the capture and storage of surface flows for groundwater recharge, including storm water, requires an appropriative water right and permit authorization from the California State Water 4j

Resources Control Board, which the City does not have, and does not discuss the feasibility of pursuing. 4j CONT

D. Water Supply Assessment. The Water Supply Assessment (WSA) prepared for the DEIR erroneously concludes that existing water demands in the Project are supplied by shallow groundwater wells. As documented above, the Project area currently receives surface water supplies from the Districts for agricultural use. Water supply assessments, under SB 610, determine water supply sufficiency for a 20-year projection in addition to the demand of existing and other planned future uses. Ultimately, the goal of the WSA is to evaluate whether the City's total projected water supplies available during normal, single-dry and multiple-dry water years during a 20-year projection are sufficient to meet the projected water demand associated with the proposed project, in addition to the water agency's existing and planned future uses, including agricultural and manufacturing uses. (See Wat. Code § 10910(c)(3).) When groundwater is the source, the WSA must include an analysis of the sufficiency of the groundwater from the basin(s) from which the proposed project will be supplied to meet projected water demand associated with the proposed project. 5a

In *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412 ("Vineyard"), the Supreme Court struck down an EIR and established four general rules that must be satisfied in an EIR's water supply analysis, two of which are relevant here:

- CEQA's informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to the problem of supplying water to a proposed land use project; thus, an EIR must present sufficient facts to evaluate the pros and cons of supplying the amount of water the project will need. (Vineyard, supra, 40 Cal.4th at 431.) The City cannot simply assume that its unsubstantiated recharge projects will solve its water problems. Nor can the City conclude there is no adverse impact to eh groundwater basin or subsidence without a basic analysis.

- In cases where uncertainty regarding the actual availability and reliability of a future water source remains after a complete discussion and analysis, an EIR must discuss possible replacement or alternative sources of water and must analyze the environmental consequences of utilizing such alternative sources. (Id. Ay 432). 5b

The ultimate question under CEQA, is not whether an EIR establishes a likely source of water, but whether it adequately addresses the reasonably foreseeable impacts of supplying water to the project. If the uncertainties inherent in long-term land use and water planning make it impossible to confidently identify the future water sources, an EIR may satisfy CEQA if it acknowledges the degree of uncertainty involved, discusses the reasonably foreseeable alternatives – including alternative water sources and - the option of curtailing the development if sufficient water is not available for later phases – and discloses the significant foreseeable environmental effects of each alternative, as well as mitigation measures to minimize each adverse impact. (Id. at 434.) The discussions above regarding Vineyard and SB 610 illustrate that neither necessarily precludes a city from approving a project if sufficient water supplies cannot be identified with certainty. Moreover, the conclusions set forth in a WSA form only a part of the city's analyses and conclusions with respect to water supply sufficiency and project approval.

INCONSISTENCY WITH GENERAL PLAN

In *Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, an appellate court determined that project approvals and findings must be consistent with a county's general plan. The court also found that an environmental impact report must provide sufficient information to the lead agency in order to make an informed decision. CEQA Guidelines require that a lead agency conducting environmental review of a project must consider whether the project would "conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over a project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect." California Code of Regulation, Title 14, Chapter 3, Appendix G, §X, Land Use and Planning. The draft EIR does not contain an analysis of the conflict between the lack of a stable water supply for the proposed development and Patterson General Plan policies requiring adequate water supplies for future development. See CEQA Guideline section 15183. 6a

Second, the draft EIR fails to comply with CEQA Guideline section 15125. In particular subsection (d) of section 15125 requires an EIR to "discuss any inconsistencies between the proposed project and…regional plans." Here, the GSP constitutes a regional plan and as PID and WSID's earlier comments reveal, there is a conflict between the amount of potable water the City of Patterson's needs to pump from the aquifer in order to meet the Project's water needs, and the amount of potable water that can be legally extracted from the aquifer under the GSP. Section 15125 compels the DEIR to take a hard look and address in detail this conflict. Omitting this analysis constitutes a failure to proceed in a manner required by law. 6b

The City of Patterson's General Plan contains goals for the development of the City and annexed areas. Goals include preservation of designated prime farmland and conjunctive management of water resources. However, language from the DEIR is inconsistent with goals expressed in the City's General Plan.

Goal NR-2.1: Undeveloped lands that are State designated as Prime Farmland, Farmland of Statewide Importance, and Unique Farmland shall be preserved, to the greatest extent feasible, for open space or agricultural use. 6c

Draft EIR Impact AG-1 addresses this goal by acknowledging the Project would convert Prime Farmland, Unique Farmland, or Farmland of State wide Importance to non-agricultural use. As mitigation, the DEIR states the project applicant shall preserve Important Farmland acreage *outside of the Patterson Planning Area.* This fails to adequately mitigate the loss of state designated farmland in light of data showing the primary process for groundwater recharge within the Central Valley floor area is from percolation of applied irrigation water (GSP 5-83). Simply stated, approving this land development project does not preserve the land for agricultural purposes "to the greatest extent feasible".

Goal PS-1.1: The City shall continue to use groundwater as a source of domestic water for the city. The City shall also pursue, as expeditiously as possible, a water supply program consisting of the development of multiple sources of water, the maximum use of recycled water, water conservation and groundwater management to accommodate projected water demand and provide for water supply security (including acquisition of surface water rights). 6d

- General Plan Implementation Measure PS-15: The City will prepare, adopt and implement a program for development of a secure, reliable, affordable long-term secondary water supply. Such a program shall include, but shall not be limited to…the conjunctive management of water resources.

- General Plan Implementation Measure PS-19: The City shall implement a subsidence monitoring program. Subsidence shall be monitored annually at each well and new wells shall be designed to prevent damage to the wells from subsidence.

6d CONT

DEIR Impact HYD-2 addresses this goal by instead selecting a portfolio for water supply that includes groundwater pumping for potable and non-potable use, recycled water, storm water capture, and conservation. The City of Patterson's water management plan (WMP 2018) also evaluated supply options that included import or purchase of water, but deemed such measures as unnecessary and not practical or feasible before extensive additional study was first conducted. The WMP concluded that, with the implementation of planned projects and conservation efforts, the City's potable and non-potable water supply is sufficient to support expected growth over a 30-year planning period and that expected water usage would not significantly impact groundwater resources in the subbasin from which the City draws its supply.

Under the City's selected future supply portfolio, it is assumed but not documented with data and information that the City would construct enough potable wells to produce up to 10,115 AFY at buildout. Further, an operational yield study commissioned by the City estimated the volume of groundwater the City could extract from the subbasin without significantly impacting resources in the subbasin to be 10,000-12,000 AFY. However, such conclusions from the WMP and operational yield study are inconsistent with and conflict with sustainable management criteria imposed by the Northern & Central Delta Mendota GSP. Although the City's increased reliance on groundwater "would not significantly impact groundwater resources in the subbasin," this fails to address compliance with specific sustainable management criteria imposed by the GSP and the City's own General Plan goals of conjunctive management. Simply stated the Northern & Central Delta Mendota GSP rules prevent Patterson from pumping the amount of water wrongly assumed in the DEIR. As a result, there is insufficient water for this Project and the consequences of this situation amount to significant environmental effects that are not addressed in the DEIR.

6e

Lastly, the draft EIR fails to mention any land subsidence monitoring program adopted or implemented by the City of Patterson, as suggested in General Plan implementation measure PS-19. This is despite a planned increase in groundwater extraction from the lower aquifer to meet Project demand, despite such an increase being associated with inelastic land subsidence, as documented in the GSP.

6f

CONCLUSION

By this written comment, PID and WSID respectfully request the City of Patterson communicate with the relevant District prior to conducting any activities affecting the Lateral M, Lateral 5- South, Lateral 6-South, sub-supply pipeline laterals, drainage ditches, drainage pipelines, and any other facilities owned and operated by WSID within the project area, in order to mitigate the impacts of project construction on the Districts. In addition, the comments provided above document that the

7

DEIR does not properly address, discuss, or mitigate the impacts of providing a water supply from groundwater to the Project; and DEIR is legally insufficient. 7 CONT

Respectfully Submitted,

HERUM\CRABTREE\SUNTAG

JEANNE M. ZOLEZZI

cc: Mr. Vincent Lucchesi
Mr. Robert Pierce

Patterson Irrigation District (PID)

Note to reader: Although this letter is labeled PID for purposes of these responses to comments, it also includes comments from Patterson Irrigation District, the Patterson Irrigation Groundwater Sustainability Agency (PID) West Stanislaus Irrigation District and the West Stanislaus Irrigation Groundwater Sustainability Agency (WSID).

Response to PID-1
The author identified herself as an attorney representing both PID and WSID and provided introductory remarks. No response is necessary.

Response to PID-2
The author references and provides selected quotes from CEQA statutes and caselaw, specifically regarding direct and indirect environmental effects including secondary environmental effects resulting from direct economic effects. No response is necessary.

Response to PID-3a
The author referenced the New East-West Connector and noted that it would cross the PID Lateral M canal. The author stated that the Draft EIR omitted any discussion regarding how construction of the canal crossing would occur or any discussion of land use conflicts that could result in loss of productive agricultural crops and land. The author also alleges that the City did not engage in meaningful consultation with PID and WISD.

The Draft EIR disclosed that existing PID and WSID canals within the Zacharias Master Plan boundaries (including Lateral M) may be relocated underground as pipelines on Page 2-13. The discussion noted that all modification to these facilities would occur in cooperation with PID and WSID. Moreover, both PID and WSID were identified as responsible agencies on Page 2-16.

GDR Engineering prepared a cross-section showing how the East-West Connector would interface with the PID Lateral M canal, which is shown in Exhibit 3-3. As shown in the exhibit, Lateral M would be piped under the roadway, with utilities (water, sewer, and storm drainage) beneath the canal pipe. It should be also noted that the development of Patterson Gardens in the early 2000s required a number of roadway and utility crossings of the Lateral M canal south of the Ranchette Triangle.

Furthermore, the Draft EIR evaluated the loss of Important Farmland on pages 3.2-7 through 3.2-10. It was assumed the entire Baldwin and Zacharias Master Plan areas would be converted to urban uses. Thus, the Draft EIR did address conversion of Important Farmland to non-agricultural use. Additionally, the Draft EIR evaluated conflicts with adjoining agricultural uses on Pages 3.2-11 through 3.2-13.

Response to PID-3b
The author provided similar comments about the WSID Lateral 5 South Canal, which is proposed to be relocated underground. The author reiterated her previous comments of the Draft EIR omitting any discussion of how this would occur.

Refer to Response to PID-3a.

Response to PID-3c
The author noted that Exhibit 2-10(a), which shows the Zacharias Master Plan Potable Water Master Plan, depicts a number of intersections between the water system and PID and WSID irrigation canals. The author reiterated her previous comments of the Draft EIR, omitting any discussion of how this would occur.

Exhibit 3-3 shows how water, sewer, and storm drainage utilities would cross beneath the PID Lateral M Canal. There would be at least 12 inches of clearance between the canal and the utility lines. It is anticipated that jack-and-bore or horizontal directional drilling methods would be used to install utility piping beneath the various canals. Both methods are proven and widely used to install piping under active facilities such as roadways, railways, and canals to avoid disruption to operations. On a broader note, utility infrastructure has been installed underneath PID and WSID canals for decades in the Patterson area without any significant disruption to water deliveries.

Response to PID-3d
The author reiterated her prior comments about the Draft EIR omitting discussion of how canal crossings would be accomplished and asserted that it does not fully mitigate potential environmental effects associated with construction impacts. The author noted that PID and WSID may not have enough information to act in their capacities as responsible agencies for issuance of encroachment permits.

The Draft EIR discussed construction impacts (including from construction of canal crossings) in several sections, including Section 3.2, Air Quality, Section 3.9, Hydrology and Water Quality, and Section 3.11, Noise. For example, Section 3.9, Hydrology and Water Quality set forth Mitigation Measure HYD-1a, which requires the implementation of a Stormwater Pollution Prevention Plan (SWPPP) during construction. The SWPPP is intended to prevent erosion and pollution from entering downstream waterways, including irrigation canals. In terms of other environmental review processes, the City of Patterson intends for the Draft EIR to cover both the City's discretionary approvals as well as those required by responsible and trustee agencies. Responsible agencies can, at their discretion, conduct additional analysis and environmental review to augment the analysis provided in the Draft EIR.

Response to PID-3e
The author asserted that the Draft EIR's Project Description is legally insufficient and noted that CEQA Guidelines Section 15124(d)(1)(A) requires the Project Description to list the agencies and permits required to implement the project.

The Draft EIR identified PID and WSID as responsible agencies on Page 2-16. The Draft EIR also noted that modification to existing canals would occur in cooperation with PID and WSID on Page 2-13. Both statements were made in the Draft EIR's Project Description. Issuance of Encroachment Permits for infrastructure improvements has been added to the list of actions necessary to implement the project. The change is noted in Section 4, Errata. Revision to include additional approvals that were inadvertently omitted, does not raise additional environmental impacts. (*Rialto Citizens for Responsible Growth v City of Rialto (2012) 208 CA4th 899*).

Response to PID-3f
The author cited CEQA Guidelines Section 15124(d)(1)(C), which require a Draft EIR to integrate the CEQA review "with these related environmental review…requirements…[t]o the fullest extent possible." The author claimed the Draft EIR omitted this requirement.

CEQA Guidelines Section 15124(d) pertains to the Intended Uses portion of the Draft EIR Project Description. Subsection (1)(C) reads "A list of related environmental review consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the Lead Agency should integrate CEQA review with these related environmental review and consultation requirements."

The Draft EIR provided a list of responsible and trustee agencies on Pages 2-15 and 2-16 and listed actions necessary to implement the project on Page 2-16. Issuance of Encroachment Permits for infrastructure improvements has been added to the list of actions necessary to implement the project. The change is noted in Section 4, Errata.

In terms of other environmental review processes, the City of Patterson intends for the Draft EIR to cover both the City's discretionary approvals as well as those required by responsible and trustee agencies. No other environmental review process is contemplated at the time of this writing.

Response to PID-4a
The author alleged that the Draft EIR does not disclose that the project's demand for potable water will exceed the aquifer's sustainable supply.

The Northern & Central Delta-Mendota Groundwater Sustainability Plan does account for the City's growth and increased water demand projected from the Zacharias project. While the Groundwater Sustainability Plan documentation shows only the projected future groundwater pumping at a regional level, the breakdown of that projection accounts for the projected growth for the City of Patterson as presented in the City's recent Water Master Plan, which itself accounted for the Zacharias project.

The City's projected demand with the proposed project is anticipated to be 11,503 acre-feet / year, of which 9,249 acre-feet / year are potable demands and 2,254 acre-feet / year are non-potable demands. In the projected water budget included in the Northern & Central Delta-Mendota Groundwater Sustainability Plan, the City's projected water demands were 9,642 acre-feet / year of potable demand (extracted from the Upper Aquifer) and 1,302 acre-feet / year of non-potable demand (extracted from the Lower Aquifer). Therefore, with the proposed project, Lower Aquifer extractions are anticipated to be less than those included in the Groundwater Sustainability Plan, while Upper Aquifer extractions for non-potable demands are anticipated to be more than those included in the Groundwater Sustainability Plan. However, the recharge component of the proposed project is expected to offset that Upper Aquifer extraction difference.

Response to PID-4b
The author alleged that a statement from Page 3.15-5, that existing water demands in the Master Plan area are almost entirely non-potable agricultural demands that are supplied by shallow groundwater wells, is false. The author claimed that both PID and WSID have provided data to the

City of Patterson showing almost exclusive use of surface water for agricultural irrigation. The author alleged that this misstatement renders the Draft EIR's Project Description legally insufficiently.

As noted on Page 3.9-24, existing water demand within the Master Plan areas is estimated at 5,384 acre-feet / year, with agricultural irrigation representing 5,370 acre-feet / year (99 percent). Surface water deliveries ranged from 750 to 2,300 acre-feet / year between 2009 and 2019 (13 to 43 percent of total demand). Thus, groundwater is the primary source of existing water use within the Master Plan areas.

For the purposes of the Water Supply Assessment (Pages 3.15-15 through 3.15-22), it was conservatively assumed that all agricultural irrigation within the Master Plan area was sourced from groundwater and all project-related demand was supplied from groundwater. This was done to provide a "worst-case" scenario in terms of demand on the aquifer.

Regardless, the assumptions used in the Water Supply Assessment for existing irrigation practices have no bearing on the Draft EIR's Project Description, as this is an existing condition. Refer to Responses to PID-5a and PID-5b for additional discussion.

Response to PID-4c

The author suggested that the pre- versus post-project water-use comparison in the Draft EIR is incorrect.

As disclosed in the Draft EIR (pg. 3.9-24), and acknowledged by the commenter, estimated pre-project water use at the project site is 5,384 acre-feet / year. However, the author fails to acknowledge that the Draft EIR stated that "Groundwater withdrawals were lower in years when surface water supplies were available", and that those surface water deliveries contributed 750 to 2,300 acre-feet / year, less than half of the estimated existing water demand (see footnote on Draft EIR page 3.9-24, which is based on the information available at the time the Draft EIR was prepared). Post-project water usage is estimated to be 2,159 acre-feet / year, a net reduction of 3,225 acre-feet / year. Thus, even in years when the maximum amount of water was delivered, there is still expected to be a relative net reduction in total groundwater pumping.

While the potential benefit to the near-surface aquifer is partially reduced due to the existing use of some imported water at the project site, the author failed to anticipate that the existing surface-water imports to the project site would be available for other beneficial uses elsewhere once the project is completed (potentially offsetting groundwater pumping by other users, or even for aquifer recharge), because of the net reduction in total water usage due to the shift in land use.

Finally, the author incorrectly states that there would be a net increase of 2,159 acre-feet / year of groundwater pumping (the full amount of post-project water usage) from the below-Corcoran aquifer. As stated on page 3.9-25, 599 acre-feet / year of the project water usage would be from non-potable sources and thus would not be extracted from the potable water supply underlying the Corcoran clay layer. Therefore, the net increase in pumping from the sub-Corcoran aquifer would be 1,546 acre-feet / year as correctly stated on Draft EIR page 3.9-24. (Actual potable water usage for the proposed project would be 1,560 acre-feet / year, but there is 14 acre-feet / year of existing

potable water use at the site, slightly reducing the net effect on the lower aquifer.) It is important to note that the projected 1,546 acre-feet / year increase in pumping from the sub-Corcoran aquifer is not affected by the degree to which existing water is sourced from upper aquifer pumping or from imported water.

Additionally, it is important to note that the projected project potable water demand of 1,560 acre-feet/year was considered and included in the City's overall projected Lower Aquifer (sub-Corcoran) pumping as evaluated in the projected water budget contained in the Groundwater Sustainability Plan.

Response to PID-4d
The author stated that potential effects related to land subsidence were not addressed in the Draft EIR.

Land subsidence was discussed beginning on page 3.6-11, and the Draft EIR concludes that the proposed Master Plan would not substantially exacerbate existing subsidence associated with the Delta-Mendota Canal.

The City is located near Check 7 on the Delta-Mendota Canal. Although existing survey data indicated that land subsidence was between 0.19 and 0.22 feet/year between 2014 and 2016, not all of this subsidence was inelastic land subsidence. Land subsidence occurring between 2014 and 2018 at those same locations (between Checks 6 and 7, and between Checks 7 and 8) ranged between 0.15 and 0.14 feet/year, indicating that some of the observed subsidence was elastic. Additionally, while Lower Aquifer (sub-Corcoran) pumping is considered to be the most common cause of inelastic land subsidence in this area, Upper Aquifer (above-Corcoran) pumping may also be contributing to observed subsidence levels and that some observed subsidence in the Delta-Mendota Subbasin may stem from pumping outside the subbasin, across the San Joaquin River.

Finally, it should be noted that observed subsidence along the Delta-Mendota Canal between 2014 and 2016 ranged from 0.03 feet/year to 0.27 feet/year, with the mean subsidence rate of 0.17 feet/year and a median subsidence rate of 0.19 feet/year along the entire length of the canal during that period. As such, canal hydraulics are impaired more severely at other locations along the canal. That said, the City is currently monitoring for land subsidence within its Groundwater Sustainability Agency boundaries and is using that data, along with groundwater extraction data, to evaluate correlations between pumping and inelastic land subsidence and to manage pumping so as to not exceed the sustainable management criteria set forth in the Groundwater Sustainability Plan.

Response to PID-4e
The author suggested that the Draft EIR analysis is inconsistent with the findings of the Groundwater Sustainability Plan relative to the sustainable yield of the sub-Corcoran aquifer.

The sustainable yield of 0.33 acre-feet / year referenced in the Groundwater Sustainability Plan for the lower aquifer was estimated based entirely on studies for neighboring basins, and while currently considered valid for the Delta-Mendota subbasin as a whole, it is expected to be refined in the future once additional data are collected and compiled. Also, the available groundwater supply for the City, as presented in the Groundwater Sustainability Plan, is considerably higher than the

amount projected from a simple area calculation using the basin-wide sustainable yield. As stated in the Draft EIR's Water Supply Assessment (pg. 4-2):

> "the draft Groundwater Sustainability Plan assumes a higher available groundwater supply for the City at buildout (2050) than presented in the Water Master Plan. The supply portfolio presented in the draft Groundwater Sustainability Plan included a total of 13,078 AFY of groundwater supply (11,776 AFY of potable, below-Corcoran, supply and 1,302 AFY of non-potable, above-Corcoran, supply) compared to 11,417 AFY (10,115 AFY of potable supply and 1,302 AFY of non-potable supply) in the Water Master Plan."

Further, sustainable management criteria and objectives in the Groundwater Sustainability Plan are tied to minimum thresholds at key wells throughout the basin, not by strict allocation based on per-acre scaling of the sustainable yield. The City will continue to coordinate with Groundwater Sustainability Plan partners to maintain sustainable use of the groundwater basin, according to the provisions, projects and planned management actions outlined in the Groundwater Sustainability Plan.

The sustainable yield for the lower aquifer was conservatively estimated based on the findings for the Westside Groundwater Sustainability Plan, located south of the Delta-Mendota Subbasin. Further, the sustainable yield is not consistent throughout the subbasin and it is therefore up to the individual Groundwater Sustainability Agencies to manage pumping to prevent significant and unreasonable subsidence. In compliance with the Groundwater Sustainability Plan, the City will be monitoring groundwater levels and subsidence within its Groundwater Sustainability Agency boundaries (as documented in the plan) and manage its pumping accordingly.

Response to PID-4f

The author questioned the City's ability to effectively recharge to the lower aquifer to support sustainable management of groundwater resources.

Page 84 of the Groundwater Sustainability Plan specifically mentions Del Puerto Creek and the western margin of the Subasin as primary recharge areas for the lower aquifer. The City's Water Master Plan summarizes the field investigation and groundwater studies conducted as part of that process, building on prior studies by Kenneth Schmidt & Associates (2010) that showed the Corcoran Clay thinning toward the western edge of the City. Based on borings in the area west of the City, Kenneth Schmidt & Associates suggested that recharge projects should be sited as far west as possible and/or adjacent to existing stream beds. Accordingly, the proposed recharge location, highlighted in Exhibit 2-9c of the Draft EIR, is located just 1,500 feet east of the Delta-Mendota Canal, and directly adjacent to the Del Puerto Creek channel, in an abandoned gravel pit.

As previously discussed in Response to PID-4d, the available groundwater supply estimated by Kenneth Schmidt & Associates is actually less than the supply assumed in the Groundwater Sustainability Plan and provides a reasonable estimate of water availability for environmental assessment purposes, especially given the planned projects and management actions outlined in the

Groundwater Sustainability Plan. It is important to note that the declining trend in storage described in the Groundwater Sustainability Plan reflects the condition of the basin as a whole, whereas the Kenneth Schmidt & Associates analysis is specific to the area in and around the City of Patterson. There is evidence that in some locations that groundwater levels reached near historic highs by 2017, following the historic or near-historic lows during the preceding drought in 2012-2016 (Groundwater Sustainability Plan pg. 5-92).

As shown in the Groundwater Sustainability Plan, without the implementation of projects, the subbasin has, and will continue to, experience a downward trend in cumulative change in storage in both the Upper and Lower Aquifers. However, with the implementation of projects identified in the Groundwater Sustainability Plan, including the City's stormwater capture and recharge project, the subbasin was shown to be sustainable into the future under the assumptions of projected future water demands that include the demands of the proposed project.

Response to PID-4g
The author suggested that the Draft EIR does not provide adequate supporting information related to the capture and recharge of local stormwater runoff. The author also claimed that the Draft EIR provides no information on the collection, routing, and required infrastructure for surface-water collection.

The Draft EIR clearly specifies (3.9-25) that the 1,185 acre-feet / year volume of locally-captured stormwater runoff was estimated as part of the Water Supply Assessment (2020) analysis. The calculation is also described on page 3.15-16.

It is important to note that the Draft EIR did not contend that the infiltrated surface water captured at the project site (and pumped to the planned recharge basin) would completely offset the increase in potable water withdrawal attributable to the project. As stated on page 3.9-26, the project would:

> "Increase usage of potable water by 1,546 AFY (provided by the City), but still within the acceptable range of operational limits of the City's facilities and without impacting the use of groundwater resources in the area surrounding the City (per the Operational Yield Study in the Water Master Plan, 2018)."

Based on the findings of the Water Master Plan, the City can sustainably pump enough water to supply its projected potable water demand, including that of the Project. (As noted on page 3.15-18, the current version of the Project would actually reduce the projected potable demand for the City relative to what was assumed in the Water Master Plan; thus lessening the potential impact even further than what is already projected.)

This information is clearly provided in the Draft EIR description of the stormwater drainage system, starting on page 3.9-27 of the Draft EIR and further depicted in Exhibits 2-9a, 2-9b, 2-9c, and 2-9d. The conveyance system and infrastructure are part of the Project, and thus were included in the associated environmental analyses.

Response to PID-4h
The author noted that the City's Water Management Plan estimated the potential annual yield of stormwater capture from Del Puerto Creek to be 1,700 acre-feet/year and claimed that it would be insufficient to offset potable water demand of the City of Patterson. The author also noted that the City has no water right to stormwater in Del Puerto Creek and no plans to obtain such a right from the State Water Resources Control Board.

The project Water Supply Assessment and the Draft EIR concluded that projected groundwater supply (as estimated in the Water Supply Assessment and included in the Groundwater Sustainability Plan) is sufficient to meet projected demand.

The recharge basin proposed by the Zacharias Master Plan does not propose to divert flows from Del Puerto Creek but instead would recharge stormwater from within the Master Plan boundaries.

Refer to Response to PID-4e and 4f for additional discussion.

Response to PID-4i
The author expressed concern that the proposed Del Puerto Canyon Reservoir project would impact the City's ability to capture and recharge stormflows from Del Puerto Creek.

Mitigation Measure HYD-2 of the Del Puerto Dam Final EIR was included specifically to ensure that there would be no reduction in groundwater supply, including "reservation and release of flows to meet the City of Patterson's proposed future [stormwater capture] project". Thus, the proposed dam would not inhibit the City's ability to capture and recharge Del Puerto Creek flows.

Response to PID-4j
The author stated that capture and storage of surface flows, including stormwater, requires an appropriative water right permit.

It is unclear whether the author is discussing capture of Del Puerto Creek stormwater flow (addressed in response to comment 4h), or for the capture and recharge of stormwater runoff within the project site itself. In the case of the latter, a water right permit is required only when water is diverted from a surface water body, and therefore capture and infiltration of local stormwater runoff does not require a water right.

Response to PID-5a
The author stated that the Water Supply Assessment erroneously concludes that existing water demands are supplied by shallow groundwater wells.

The Water Supply Assessment assumed that all potable water would be provided by the lower aquifer and non-potable water would be provided by the upper aquifer. Refer to Response to PID-4c for further discussion.

Response to PID-5b
The author suggested that the City has not provided analysis to show that there is no adverse impact to the groundwater basin.

This comment ignores the fact that the 2018 Water Master Plan was explicitly conducted "to rigorously evaluate potential water supply options and additional conservation measures, and to define a cost-effective and sustainable water supply portfolio" (Water Master Plan, pg. 1-1). The 2018 Water Master Plan, undertaken in direct response to upcoming SGMA planning efforts, concluded through use of numerical modeling of the Delta-Mendota Groundwater Basin surrounding the City that the City's potable and non-potable water supply would be sufficient to support expected growth over the 30-year planning period (including growth associated with development at the project site).

Additionally, the projected water budget contained in the Groundwater Sustainability Plan assumes that the City's projected future water demands, with the Zacharias and Baldwin Master Plans, would be 10,944 acre-feet/year, including 9,642 acre-feet/year of potable supply extracted from the Lower Aquifer and 1,302 acre-feet/year of non-potable water supply from the Upper Aquifer. The projected water budget also demonstrated that, with the implementation of projects, including the City's stormwater capture and recharge project (which would contribute 1,700 acre-feet/year of recharge to the Upper Aquifer), that the groundwater basin would be sustainable long term. As documented in the WSA and noted in the EIR, the City's total demands with the project are now estimated to be 9,249 acre-feet/year of potable supply (393 acre-feet/year less than assumed in the Groundwater Sustainability Plan projected water budget) and 2,254 acre-feet/year of non-potable supply (952 acre-feet/year more than assumed in the Groundwater Sustainability Plan projected water budget). This difference in Upper Aquifer extractions would, however, be offset by the recharge component of the proposed project.

Response to PID-6a
The author alleged that the Draft EIR does not address the conflict between the lack of a stable water supply for the proposed project and the City of Patterson General Plan policies requiring adequate water supplies.

As indicated in Response to PID-4a through Response to PID-5b, the author's claims about lack of adequate water supply for the proposed project are not supported by evidence.

The Draft EIR addressed consistency with the City of Patterson General Plan's goals and policies in Table 3.10-1 (Pages 3.10-6 through 3.10-43). The Master Plans were found to be consistent with all goals and policies that pertained to groundwater and water supply (e.g., Goal PS-1 and Policies PS-1.3, PS-3.15, NR-1.7).

Response to PID-6b
The author alleged that the Draft EIR failed to evaluate consistency with the Groundwater Sustainability Plan.

The Draft EIR's Water Supply Assessment discussed the Northern & Central Delta-Mendota Regional Groundwater Sustainability Plan on Pages 3.15-14 through 3.15-21. As discussed on Page 3.15-19, the Groundwater Sustainability Plan assumes a higher safe yield (13,078 acre-feet/year) than the City's Water Master Plan (11,776 acre-feet/year). Thus, the Draft EIR's Water Supply Assessment used the Water Master Plan's more conservative safe yield value as the basis for its analysis. As such,

the Draft EIR established that the proposed project is consistent with the Northern & Central Delta-Mendota Regional Groundwater Sustainability Plan.

Response to PID-6c
The author referenced City of Patterson General Plan Goal NR-2.1 and alleged that the project is inconsistent with this goal because it would convert farmland to non-agricultural use.

To clarify, there is no Goal NR-2.1 in the City of Patterson General Plan. Rather, there is Goal NR-2 and Policy NR-2.1, reproduced as follows:

> **Goal NR-2:** To protect and preserve local agricultural lands and to prevent their premature conversion to urban uses.
>
> **Policy NR-2.1:** Agricultural land preservation. Undeveloped lands that are State designated as Prime Farmland, Farmland of Statewide Importance, and Unique Farmland shall be preserved, to the greatest extent feasible, for open space or agricultural use.

When read in context with each other, it becomes self-evident that the goal and policy are intended to discourage the premature conversation of agricultural lands to urban use and to preserve the highest value agricultural lands until it is no longer feasible to do so. In this case, nearly all of the undeveloped residentially zoned land within the Patterson city limits has been entitled for development; thus, the City is proposing to annex agricultural lands adjacent to the city limits for future residential development. This is consistent with the goal of discouraging the premature conversion of agricultural lands to urban use. Thus, the proposed project would not be in conflict with Goal NR-1 or Policy NR-2.1.

Response to PID-6d
The author referenced City of Patterson General Plan Goal PS-1.1, Implementation Measure PS-15, and Implementation Measure PS-19, and stated that the Draft EIR addressed them in Impact HYD-2 by selecting a portfolio for water supply sources that include groundwater, recycled water, and stormwater capture.

The author's description of Impact HYD-2 is correct, although the Draft EIR concluded that the proposed project would (1) reduce pumping from the aquifer; (2) reduce recharge to the upper aquifer but at a rate lower than the reduction in pumping; (3) increase usage of potable water but in a sustainable manner; and (4) increase recharge to the lower aquifer in a manner that would help offset the increase in pumping.

Response to PID-6e
The author stated that the City's chosen portfolio is inconsistent with the Northern & Central Delta-Mendota Regional Groundwater Sustainability Plan, specifically the amount of water the City plans to pump from the aquifer.

As noted in Response to PID-6b, the Groundwater Sustainability Plan assumes a higher safe yield (13,078 acre-feet/year) than the City's Water Master Plan (11,776 acre-feet/year). The Draft EIR's Water Supply Assessment therefore used the Water Master Plan's more conservative safe yield value

as the basis for its analysis. As such, the Groundwater Sustainability Plan does not prevent the City from realizing is contemplated water supply portfolio as stated by the author.

Response to PID-6f
The author alleged that the Draft EIR failed to mention any land subsidence monitoring program adopted or implemented by the City of Patterson as suggested by General Plan Implementation Measure PS-19.

The Draft EIR evaluated subsidence on Pages 3.6-11 and 3.6-12.

The Groundwater Sustainability Plan addresses land subsidence and notes that it is a direct result of groundwater pumping. Because the City's future groundwater production is within the safe yield of the aquifer as set forth in Groundwater Sustainability Plan, the proposed project would not exacerbate this existing condition.

Response to PID-7
The author summarized the points in the letter. Refer to Response to PID-2 through Response to PID-6f.

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San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

HEALTHY AIR LIVING™

February 19, 2021

Joel Andrews
City of Patterson
1 Plaza Circle
Patterson, CA 95363

Project: Baldwin Master Plan / Zacharias Master Plan Project State Clearinghouse No. 2018122052

District CEQA Reference No: 20210046

Dear Mr. Andrews:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the project referenced above from the City of Patterson (City). The project consists of the construction of 5,086 dwelling units, 7,765,000 square feet of non-residential uses such as commercial and light industrial, two schools, a dual use storm water basin, recreational facility, and 76 acres of park/open space (Project). The Project Zacharias and Baldwin Master Plans encompass 1,227.1 acres outside the Patterson city limits in unincorporated Stanislaus County, CA (APN Multiple APN). The District offers the following comments: 1

1) <u>Recommended Feasible Mitigation for Operational Air Quality Impacts</u>

The San Joaquin Valley will not be able to attain stringent health-based federal air quality standards without significant reductions in emissions from HHD Trucks, the single largest source of NOx emissions in the San Joaquin Valley. The District recently adopted the 2018 PM2.5 Plan which includes significant new reductions from HHD Trucks, including emissions reductions by 2023 through the implementation of the California Air Resources Board (CARB) Statewide Truck and Bus Regulation, which requires truck fleets operating in California to meet the 2010 0.2 g/bhp-hr NOx standard by 2023. Additionally, to meet the federal air quality standards by the 2020 to 2024 attainment deadlines, the District's Plan relies on a significant and immediate transition of heavy duty truck fleets to zero or near-zero emissions technologies, including the near-zero truck standard of 0.02 g/bhp-hr NOx established by the California Air Resources Board. 2

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www.valleyair.org www.healthyairliving.com

The Project not only consists of "residential units", but also "light industrial and commercial" warehouse development which typically generates a high volume of HHD Truck traffic, including HHD Trucks traveling to-and-from further trip length distances for potential distribution. To reduce impacts from operational mobile source emissions, the District recommends that the following mitigation measures be considered for inclusion in the Final EIR:

- Require fleets associated with Project operational activities to utilize the cleanest available HHD truck technologies, including zero and near-zero (0.02 g/bhp-hr NOx) technologies as feasible.
- Require all on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) to utilize zero-emissions technologies as feasible.
- Require fleets associated with future development projects to be subject to the best practices (i.e. eliminating unnecessary idling).

2 CONT

2) <u>Reducing Air Quality Impacts from Construction Activities</u>

To further reduce impacts from construction-related exhaust emissions and activities, the District recommends using the cleanest reasonably available off-road construction practices (i.e. eliminating unnecessary idling) and fleets, as set forth in §2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 Code of Federal Regulations be used to reduce Project related impacts from construction related exhaust emissions.

3

3) <u>Voluntary Emissions Reduction Agreement</u>

The DEIR includes Policy AR-6.1, which indicates that the City will work with local energy providers and developers on voluntary incentive-based programs to encourage the use of energy efficient designs and equipment. However, in a discussion regarding Voluntary Emission Reduction Agreements (VERA) as a method to mitigate the significant criteria pollutant impacts identified in Table 3.3-7, the City did not recommend a VERA as a mitigation measure and also did not discuss its feasibility as a mitigation measure for the Project.

As discussed in the DEIR, a VERA is a measure by which the project proponent provides mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving as the administrator. 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 emission reduction incentive programs. Thus, project-specific regional impacts on air quality may be further mitigated.

4

To provide the City with some background information: the District developed the VERA program in 2005, designed to provide developers with an enforceable and legally defensible means to mitigate significant emission increases. Since 2005, the

District has entered into 46 VERAs with project proponents to mitigate air quality impacts of their projects. The VERAs were applied as a mitigation measure for a wide range of projects from small single family residential projects to large mixed-use specific plans. In those cases, the VERAs were found to be cost effective and a feasible mitigation measure.

Utilizing the District's highly successful grant administration program, these VERAs have reduced over 9,600 tons of emissions by funding emission reduction projects for Valley businesses, residences, and municipalities. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacement of old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of aging agricultural tractors. 4 CONT

The District recommends that the City conduct a cost analysis for the proposed Project that quantitatively considers a VERA as a mitigation measure to address the significant air quality impacts associated with the Project. Furthermore, the District encourages the City to contact the District should they have any questions in pursuit of that consideration.

4) <u>Health Risk Assessment</u>

The DEIR states that a project-specific Health Risk Assessment (HRA) was not performed. Additionally, the DEIR references the assessment performed for two other projects, the West Patterson Business Park and the Phelan Gateway Project in Lathrop, for estimating the cancer and non-cancer risks for this Project. An HRA is project specific. Located immediately south of the Project location, there are sensitive receptors such as single family residential units and churches. The District typically recommends the development project(s) be evaluated for potential health impacts to surrounding receptors (on-site and off-site) resulting from operational and multi-year construction TAC emissions. 5

Furthermore, the mitigation measure AIR-3c (MM AIR-3c) in the DEIR requires future projects within the Baldwin and Zacharias Master Plans that include warehouses/distribution centers to do a health risk prioritization screening analysis to access the potential diesel particulate matter impacts. The mitigation measure AIR-3c includes four specific measures that "should" be considered for future projects. The District recommends the City rephrase MMAIR-3c to state that the four specific measures "shall" be considered instead of "should" to assure that these measures were deliberated.

5) <u>Air Quality Monitoring – Carbon Monoxide (CO)</u>

In the DEIR, on page 167, in the "Existing Air Quality Conditions" section, it states that there are "no recent monitoring data for Stanislaus County or the San Joaquin Valley Air Basin available for CO or SO" from 2016 to 2018. The District would like to point 6

out that that the California Air Resources Board (CARB) website has the missing information for Carbon Monoxide for the year 2018.

The District recommends the City update the 3.3-2 table and ensure that it is an accurate reflection of the available emission monitoring results. 6 CONT

For your reference, the link to the ARB website is here:
https://www.arb.ca.gov/aqmis2/aqmis2.php

6) Vegetative Barriers and Urban Greening

The Project is located in an urban area in Patterson city and is surrounded by mix land use development. More specifically, there are commercial and single family residential units located immediately southeast to the Project, the nearest school (Patterson High School) is located approximately one mile southeast of the Project, the nearest middle school (Creekside Middle School) is located approximately half a mile south of the Project and the nearest church's (Patterson Church of Christ, Ward Avenue Baptist Church) is located approximately a half mile southeast of the Project. The District suggests the City consider the feasibility of incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (i.e. church and school). 7

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 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 resistant low maintenance greenery.

7) Clean Lawn and Garden Equipment in the Community

Since the Project consists of residential, educational, recreational and light industrial development, gas-powered residential and commercial lawn and garden equipment have the potential to result in an increase of NOx and PM2.5 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. 8

More information on the District CGYM program and funding can be found at: http://www.valleyair.org/grants/cgym.htm and http://valleyair.org/grants/cgym-commercial.htm. 8 CONT

8) Under-fired Charbroilers

The proposed development project may include retail use in the commercial portion of the Project, which may potentially be occupied by restaurants. Should restaurants with under-fired charbroilers move in, the charbroilers may pose the potential for immediate health risk, particularly when located in densely developed locations near sensitive receptors. Since the cooking of meat can release carcinogenic PM2.5 species like 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. As mentioned above, the Project is located in an urban area with commercial and office buildings immediately adjacent to the Project. A church and a high school is located northwest and south of the Project. This potential for neighborhood-level concentration of emissions during evening or multi-day stagnation events raises environmental concerns. 9

Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM2.5 standards and associated health benefits in the Valley. Therefore, the District recommends that if the Project includes the installation of an under-fired charbroiler, a measure should be included requiring the assessment and potential installation, as technologically feasible, of particulate matter emission control systems for the Project. The District is available to assist the City with this assessment. Additionally, to ease the financial burden for Valley businesses, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system for up to two years. Please contact the District at (559) 230-5800 or technology@valleyair.org for more information.

9) Solar Deployment in the Community

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 Project proponent consider the feasibility of incorporating solar power systems, as an emission reduction strategy for this Project. 10

10) Charge Up! Electric Vehicle Charger

To support further installation of electric vehicle charging equipment and development of such 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 this incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District suggests that the City and Project proponent consider the feasibility of installing electric vehicle chargers for this Project. 11

Please visit www.valleyair.org/grants/chargeup.htm for more information.

11) District Rules and Regulation

The District issues permits for many types of air pollution sources and regulates some activities not requiring permits. A project subject to District rules and regulation would reduce its impacts on air quality through compliance with regulatory requirements. In general, a regulation is a collection of rules, each of which deals with a specific topic. Here are a couple of example, Regulation II (Permits) deals with permitting emission sources and includes rules such as District permit requirements (Rule 2010), New and Modified Stationary Source Review (Rule 2201), and implementation of Emission Reduction Credit Banking (Rule 2301). 12

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

11a) 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 requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 requires that new and modified stationary sources of emissions mitigate their emissions using best available control technology (BACT).

This Project will be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. 13

Prior to commencing construction on any permit-required equipment or process, a finalized Authority to Construct (ATC) must be issued to the Project proponent by the District. For further information or assistance, the project proponent may contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

11b) District Rule 9510 (Indirect Source Review)

The purpose of District Rule 9510 (Indirect Source Review) is to reduce the growth in both NOx and PM10 emissions associated with development and transportation projects from mobile and area sources associated with construction and operation of development projects. The rule encourages clean air design elements to be incorporated into the development project. In case the proposed project clean air design elements are insufficient to meet the targeted emission reductions, the rule requires developers to pay a fee used to fund projects to achieve off-site emissions reductions.

The proposed 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 2,000 square feet of commercial space, 50 residential units, 25,000 square feet of light industrial and 20,000 square feet of recreational space. When subject to the rule, an Air Impact Assessment (AIA) application is required prior to applying for project-level approval from a public agency. In this case, if not already done, please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510. 14

The DEIR mentions that the Project will comply with the Districts Rule 9510 and it will reduce NOx and PM10 emissions to the "extent feasible." The District would like to specify that operational emission reductions realized by compliance with Rule 9510 are 33.3% for NOx and 50% for PM10, and that additional mitigation measures are available to further reduce operational emissions.

An AIA application is required and the District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit, be made a condition of Project approval.

Information about how to comply with District Rule 9510 can be found online at: http://www.valleyair.org/ISR/ISRHome.htm.

The AIA application form can be found online at: http://www.valleyair.org/ISR/ISRFormsAndApplications.htm.

11c) District Rule 9410 (Employer Based Trip Reduction)

Future developments within the Project boundary may be subject to District Rule 9410 (Employer Based Trip Reduction) if the development would result in employment of 100 or more "eligible" employees. District Rule 9410 requires employers with 100 or more "eligible" employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have 15

the flexibility to select the options that work best for their worksites and their employees.

Information about how District Rule 9410 can be found online at: www.valleyair.org/tripreduction.htm. 15 CONT

For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at etrip@valleyair.org

11d) Other District Rules and Regulations

The Project may also be subject to the following District rules: Regulation VIII, (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants). 16

If you have any questions or require further information, please contact Harout Sagherian by e-mail at Harout.Sagherian@valleyair.org or by phone at (559) 230-5860. 17

Sincerely,

Brian Clements
Director of Permit Services

John Stagnaro
Program Manager

BC: hs

San Joaquin Valley Air Pollution Control District

Response to APCD-1
The agency provided introductory remarks. No response is necessary.

Response to APCD-2
The agency proposed the following mitigation measures to reduce operational mobile emissions: (1) require truck fleets to use zero and near-zero emissions technologies as feasible; (2) require all on-site service equipment to use zero emissions technologies; and (3) require fleets associated with future development to be subject to best practices including anti-idling.

Mitigation Measure AIR-3c requires site specific Health Risk Assessments for new warehouse/distribution centers and identifies anti-idling measures, electrical outlets to power TRUs when in-dock, and the use of electric yard hostlers to move trailers as mitigation options. Thus, two of the agency's three recommendations are included in Mitigation Measure AIR-3c.

Implementation of the first recommendation is not currently feasible. While zero (electric) near-zero trucks (natural gas and propane) are becoming more prevalent, they represent a very small percentage of the overall American truck fleet, and typically reflect large corporations that operate and maintain their own dedicated fleet of vehicles, Firms that utilize vehicles provided by individual vendors would be prohibited, and as such, the light industrial portion of the Zacharias Master Plan would likely be rendered infeasible until zero emission vehicles are more fully represented throughout the industry. The City notes that there are no provisions that limit any end user from employing zero or near-zero truck fleets, and.

Lastly, the proposed project is subject to the APCD's Indirect Source Rule (Rule 9510). Light industrial applicants will be required to submit Air Impact Assessment Applications containing measures to reduce project operational emissions or payment of mitigation fees to fund off-site mitigation projects. One mitigation option is for projects to utilize a clean truck fleet for vehicles under the tenant's ownership or control. As new zero emission truck technologies become available, applicants will have more opportunities to take advantage of this measure to reduce their mitigation fees.

Response to APCD-3
The agency proposed construction anti-idling mitigation measures in accordance with California Code of Regulations Title 13 Section 2423.

Because construction anti-idling is codified as law, it already applies to project-related construction activities. Mitigation Measure AIR 3c recommends that signs informing drivers of the requirements of the anti-idling regulation be placed at loading docks to help enhance compliance.

Response to APCD-4
The agency proposed a Voluntary Emissions Reduction Agreement in which a project would fund emissions reduction incentive programs elsewhere.

The proposed project is subject to the APCD's Indirect Source Rule (Rule 9510), which is similar to a Voluntary Emissions Reduction Agreement and utilizes project funding to support emissions reductions elsewhere in the Air Basin. Therefore, there is no need to incorporate a mitigation

measure to this effect. The Draft EIR at Page 3.3-32 includes justification for not implementing a VERA for master plan projects. The Master Plan will be implemented by multiple developers over many years. Individual sites are typically sold to specialized commercial and residential builders as actual projects are identified. Under those circumstances, utilizing Rule 9510 compliance to reduce emissions on a project-by-project basis is more appropriate and feasible compared with managing a VERA over 20 years.

Response to APCD-5
The agency noted that the Health Risk Assessment referenced the assessments performed for the West Patterson Business Park and Phelan Gateway Project. The agency recommended that the project be evaluated for potential health impacts to surrounding receptors. The agency also requested that the word "should" be changed to "shall" in Mitigation Measure AIR-3c.

Both the West Patterson Business Park and Phelan Gateway Project proposed more light industrial square footage and, thus, the conclusions in these documents that sensitive receptors would not be exposed to unhealthful concentrations of pollution were used as a proxy for the proposed project. Furthermore, West Patterson Business Park borders the Zacharias Master Plan boundaries and the Health Risk Assessment conclusions for that project are very much relevant to the proposed project and provide further evidence that the additional light industrial projects in the Zacharias Master Plan would have similar impacts. The agency noted that HRA's are project specific. The Master Plan does not contain sufficient detail to determine the quantity and location of emission sources needed to accurately determine project impacts. Therefore, Mitigation Measure AIR-3c was included to ensure that the health risk would be assessed prior to approval of the site plan for uses meeting certain criteria included in the measure.

The agency also indicates that it recommends evaluation of health impacts for multi-year construction projects. The timing of construction activities at individual sites in the Master Plan area is not currently known. Health impacts vary by proximity to the nearest sensitive receptor location. Therefore, each individual project within the Master Plan area will have different impacts on each receptor location. It is likely that no individual receptor will be in close proximity to multiple years of construction. Assuming otherwise would be speculative.

Lastly, the light industrial portion of the proposed project would not border any existing residential uses. The existing residential uses to the south of the project (Patterson Gardens) would border residential uses associated with the Zacharias Master Plan.

Regarding Mitigation Measure AIR-3c, it was intended to offer a 'menu' approach in which specific applicants can tailor emissions reduction measures to the characteristics of their projects.

Response to APCD-6
The agency noted that the Draft EIR stated on Page 3.3-9 that there is no recent (2016-2018) monitoring data for Stanislaus County for carbon monoxide (CO) or sulfur dioxide (SO_2), and also stated that the California Air Resources Board website has recent CO monitoring data for 2018. The agency suggested that Table 3.3-2 be updated to reflect the availability of data.

At the time, the Draft EIR was prepared, there was no Stanislaus County monitoring data for CO. Moreover, as discussed on Page 3.3-12, Stanislaus County is in attainment for CO. Thus, it is not necessary to revise Table 3.3-2 for a non-priority pollutant.

Response to APCD-7
The agency listed several sensitive receptors and suggested incorporating vegetation barriers and urban greening to further reduce emission exposure to these receptors.

As stated on Draft EIR Page 3.3-46, sensitive receptor impacts were found to be less than significant after mitigation. Thus, there is no legal basis to impose additional mitigation for this impact.

The Baldwin and Zacharias Master Plans contemplate landscaping along roadways and property lines. These landscaped areas would serve as urban greening and may also serve as vegetation barriers.

Response to APCD-8
The agency recommended the project proponent consider the APCD's Clean Green Yard Machines Program, which provides incentive funding for replacement of gas-powered lawn and garden equipment.

The proposed project is subject to the APCD's Indirect Source Rule (Rule 9510), which will require the applicant to provide funding to the agency for emissions reduction projects and programs elsewhere in the Air Basin. The APCD has the discretion to apply these funds to the Clean Green Yard Machines Program. In addition, individual homeowners will have the option of utilizing the Program.

Response to APCD-9
The agency noted that restaurants that use under-fired charbroilers are sources of carcinogenic pollutants such as polycyclic aromatic hydrocarbons and advised that the APCD can assist with assessment of such end uses.

None of the commercial end users are known at the time of Final EIR publication and, thus, it would be speculative to presume that a restaurant with an under-fired charbroiler would be located within the project. Regardless, APCD Rule 4692 regulates commercial charbroilers and, therefore, would apply to such uses if they are proposed in the future.

Response to APCD-10
The agency suggested that the project proponent consider the feasibility of incorporating solar power systems into the project.

None of the commercial or light industrial end users are known at the time of Final EIR publication and, thus, mandating solar for these uses may render the project infeasible. Nonetheless, the commercial and light industrial uses would be subject to the requirements of the California Green Building Code, which requires that buildings be 'solar ready.' As such, end users who desire to use solar will have that option.

The 2019 California Green Building Code requires most new single family homes to include solar panels; therefore, no mitigation measure is required.

Response to APCD-11
The agency suggested that the project proponent consider the feasibility of installing electric vehicle chargers.

None of the commercial or light industrial end users are known at the time of Final EIR publication and, thus, mandating electrical vehicle chargers for these uses may render the project infeasible. Nonetheless, end users who desire to employ electric vehicle chargers will have that option. In addition, the 2019 California Green Building Code parking lots for commercial uses to be EV charger capable to allow easy installation in the future.

Response to APCD-12
The agency listed APCD Rules and Regulations that may be applicable to the proposed project.

The Draft EIR listed applicable APCD rules on Page 3.3-18.

Response to APCD-13
The agency noted that stationary sources would be subject to Rules 2010 and 2201.

None of the commercial or light industrial end users are known at the time of Final EIR publication and, thus, it would be speculative to presume that stationary sources would part of the project. Nonetheless, APCD Rules 2010 and 2201 regulates stationary sources and, therefore, would apply to such activities if they are proposed in the future.

Response to APCD-14
The agency stated that the proposed project is subject to Rule 9510 and noted that the Draft EIR stated that compliance with this rule would occur to the "extent feasible." The agency noted that Rule 9510 requires NO_X to be reduced by 33.3 percent and PM_{10} to be reduced by 50 percent.

The Draft EIR discussed Rule 9510 compliance on Page 3.3-30 and showed post-Rule 9510 reduction in Table 3.3-7. As shown in the table, NO_X would be reduced by 33.3 percent and PM_{10} would be reduced by 50 percent.

Response to APCD-15
The agency stated that future nonresidential development that employs 100 or more workers would be subject to APCD Rule 9410 (Employer Based Trip Reduction).

Mitigation Measure TRANS-2a requires industrial development projects that employ more than 50 workers to implement a Transportation Demand Management Plan. This requirement is consistent with Rule 9410.

Response to APCD-16
The agency listed various APCD rules that may be applicable to the project.

The Draft EIR listed applicable APCD rules on Page 3.3-18.

Response to APCD-17
The agency provided closing remarks. No response is necessary.

Hank Gnesa
712 Rose Avenue
Patterson, CA 95363
(209) 505-9595

December 9, 2020

Via Certified U.S. Mail & email jandrews@ci.patterson.ca.us

Mr. Joel Andrews
City of Patterson
Planning Division
P.O. Box 667
Patterson, CA 95363

Re: Zacharias Master Plan and Hearing on EIR
Date: Thursday, December 10th, 2020
Time: 6:30 -8 pm

Dear Mr. Andrews:

As you know, I am one of the property owners within the Zacharias Master Plan, I live at the above address, and my A.P.N. is 047-017-018.

This letter is to put the City of Patterson on notice of my ongoing concern that I have voiced at several meetings on this project, the proposed Zacharias Master Plan, and the related EIR. The proposed plan to construct a walking/bike path on the western boundary of my property for the planned development by Keystone could place bikers and walkers in the direct path of being over sprayed by chemicals used in caring for my 18-acre almond orchard as well as dust and other contaminants generated by our farming operations.

If the City of Patterson adopts the recommended environmental impact report, I believe it should address the fact that this is potentially harmful to human beings. The right to farm by agricultural operations in existence prior to residential development projects is well recognized in various ordinances and laws to protect farmers' right to farm. I would suggest a compromise. The identified segment of walking/bike path should have a condition placed on it in the Zacharias Master Plan that it cannot be built until such time at our property is developed into housing. 1

Further, this is to put the City on notice that if in the future this walking/bike path is constructed as currently proposed, before someone purchases and develops our property, then if we receive any complaints, claims, or lawsuits by those using the walking/bike path we will join the City of

Patterson as a party in any claims or litigation that follows as a result of the above described problem.

1
CONT

Very truly yours,

Hank Gnesa

Private Parties

Hank Gnesa (GNESA)

Response to GNESA-1

The author advised that he is a property owner within the Ranchette Triangle and has an 18-acre orchard on his property. He expressed concern that bikers and walkers who would use the proposed bike/pedestrian path along the PID canal may be exposed to agricultural chemicals and dust from his farming operations. He proposed a compromise in which the path is not developed until his property is developed.

At the time of this writing, the PID canal trail is conceptual in nature. Developing the path would require the cooperation of PID, which is not assured.

In terms of the concerns about land use compatibility between active recreation/transportation facilities and agricultural land uses, there are successful examples in other jurisdictions where these types of uses coexist without any significant conflict. For instance, an extensive Class I bike/pedestrian trail system exists throughout the South Livermore wine country, and where trail segments interface with agricultural uses, fencing and signage exist to deter trail users from trespassing. Furthermore, the City of Livermore's Active Transportation Plan contemplates the expansion of this trail network into other areas where agricultural uses exist. Likewise, the Napa Valley Vine Trail has an existing trail segment between Napa and Yountville that adjoins vineyards. The Napa Valley Vine Trail Coalition contemplates the future extension of the trail to Calistoga, passing by numerous vineyards. As evidenced by these examples, active recreation/transportation facilities and agricultural land uses are not inherently incompatible, and coexist successfully in other areas in Northern California.

Lastly, the City of Patterson acknowledges the author's proposed compromise and may amend the Zacharias Master Plan to include a provision that the PID canal trail will not be developed until his property develops.

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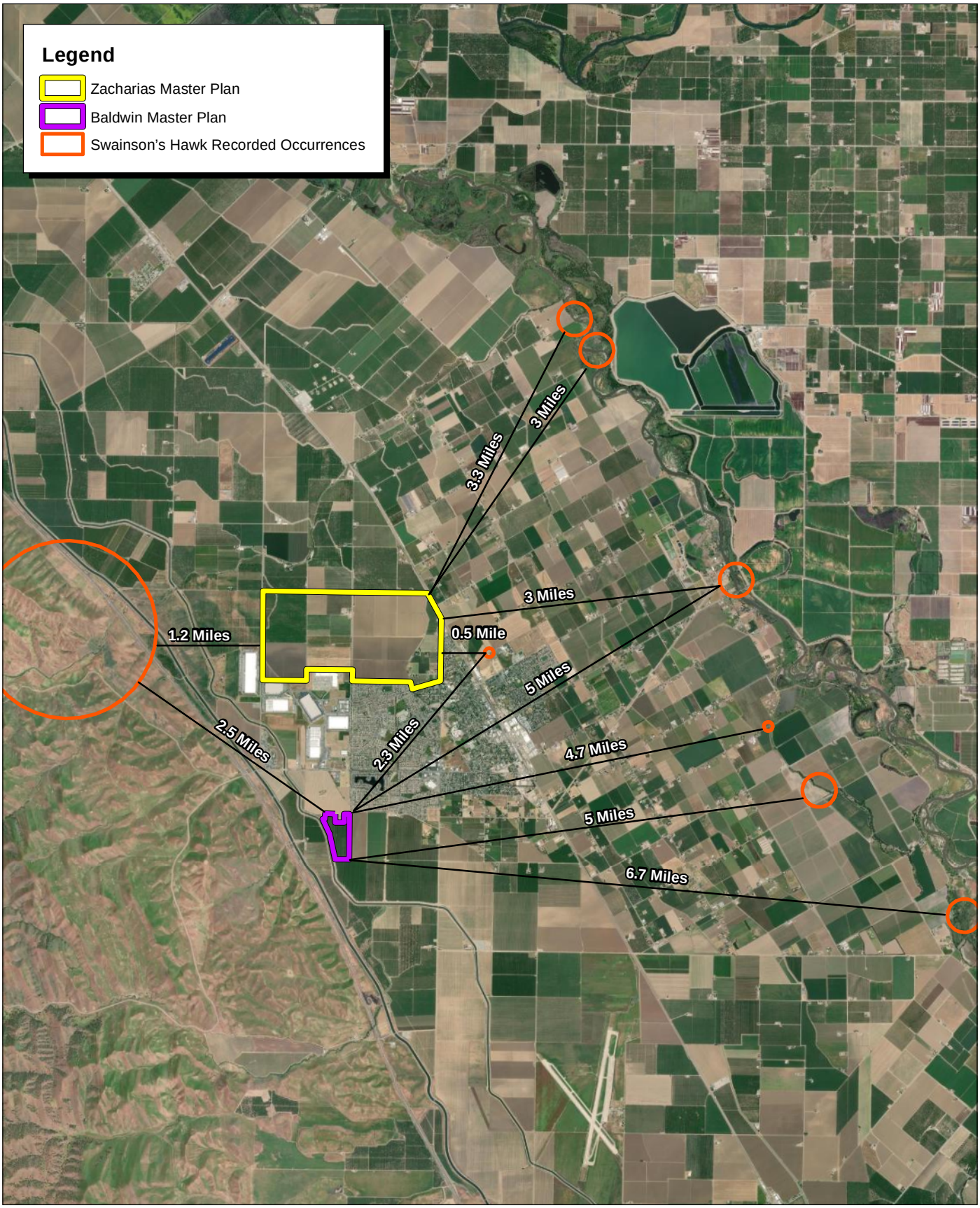

Source: ESRI Aerial Imagery. California Natural Diversity Database (CNDDB), February 2021.

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Exhibit 3-1
Swainson's Hawk Recorded Occurrences

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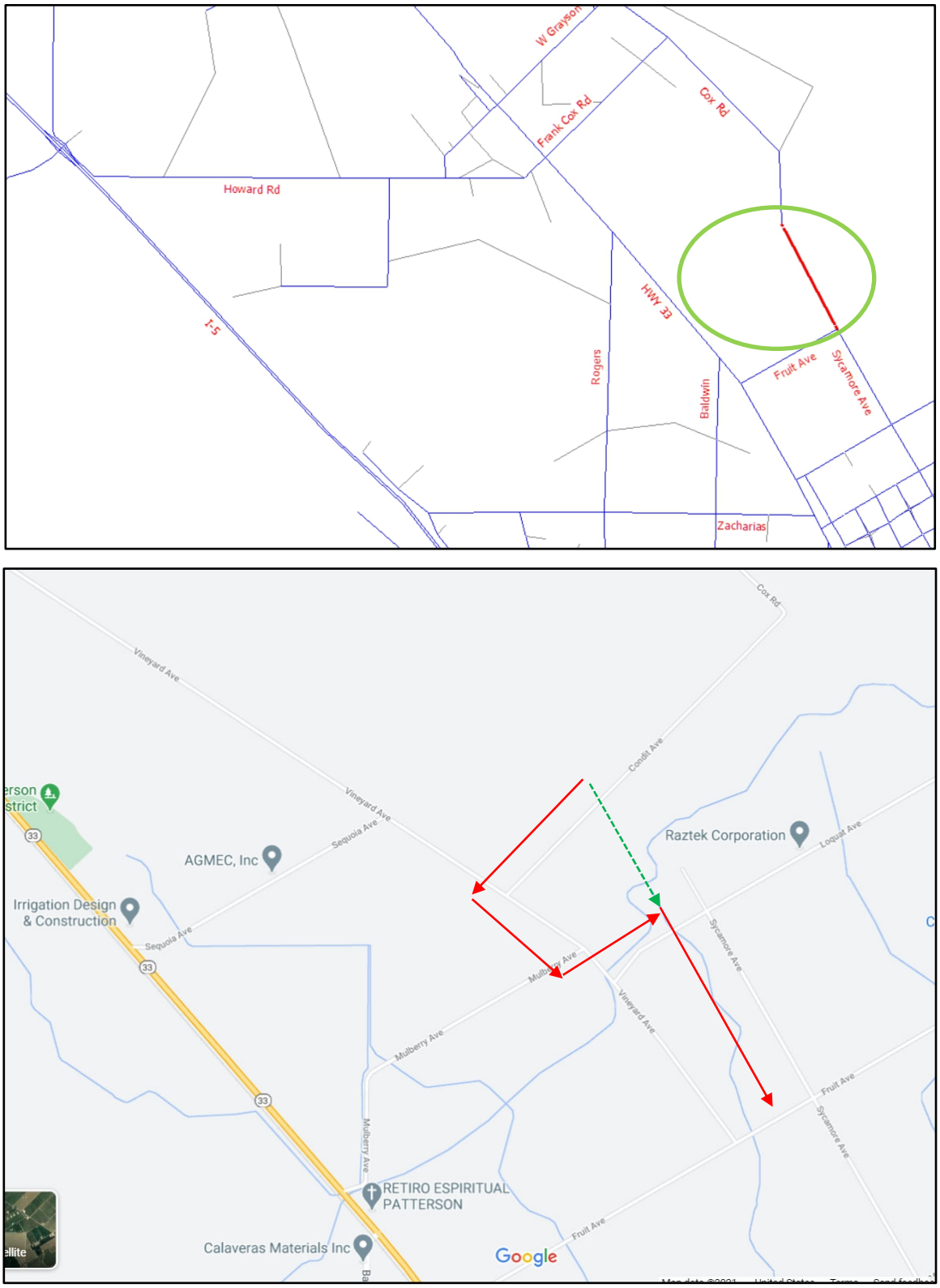

Source: Advanced Mobility Group, February 19, 2021.

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Exhibit 3-2
Comparison of Model Network and Actual Network

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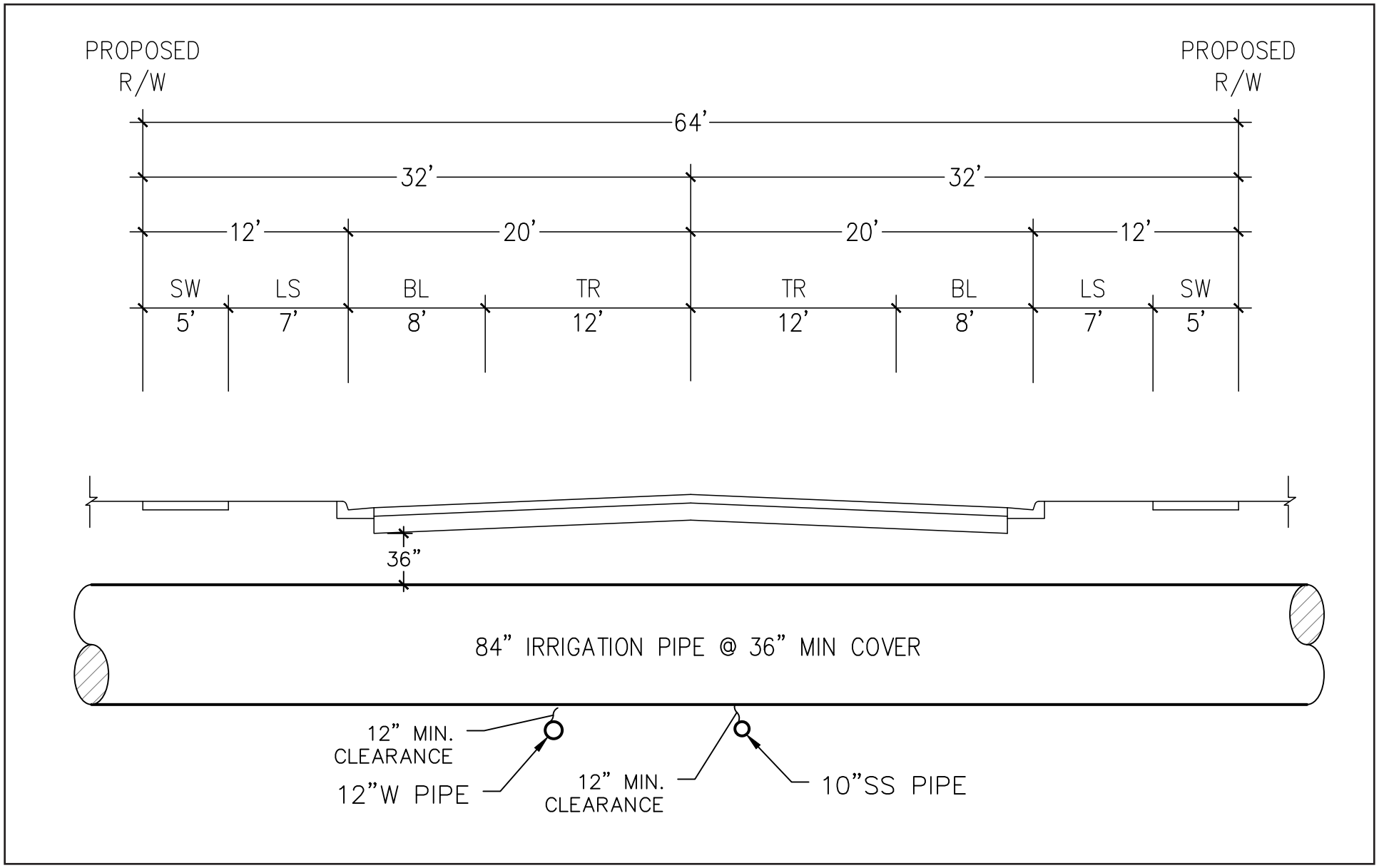

Source: GDR Engineering, Inc., 2021.

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Exhibit 3-3
Patterson Irrigation District Canal Cross-Section

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SECTION 4: ERRATA

The following are revisions to the Draft EIR for the Baldwin Master Plan/Zacharias Master Plan Project. These revisions are minor modifications and clarifications to the document, and do not change the significance of any of the environmental issue conclusions within the Draft EIR. The revisions are listed by page number. All additions to the text are underlined (underlined) and all deletions from the text are stricken (~~stricken~~).

4.1 - Changes to the Draft EIR

Section 2, Project Description

Page 2-16

The list of actions necessary to implement the project has been amended to note that both Patterson Irrigation District and West Stanislaus Irrigation District would issue encroachment permits.

Actions that are necessary to implement the project that must be taken by other agencies are:

- Issuance of Clean Water Act Section 404 Individual and Nationwide Permits and Section 401 Water Quality Certification.
- Issuance of Lake and Streambed Alteration Agreements.
- Rule 9510 Indirect Source Review
- Adjustment of Sphere of Influence
- Annexation/Detachment
- Approval of Out-of-Boundary Service Agreement(s)
- School Site Development Approvals
- Issuance of Encroachment Permits for infrastructure improvements

Section 3.4, Biological Resources

Pages 3.4-15 and 3.4-16, Mitigation Measure BIO-1a

Mitigation Measure BIO-1a has been revised include California Department of Fish and Wildlife recommendations.

MM BIO-1a No more than 10 ~~14~~ days prior to the initiation of ground-disturbing activities within the nesting season (February 1 to August 31), a qualified Biologist shall perform a pre-construction survey for the tri-colored blackbird, burrowing owl, loggerhead shrike, or nesting migratory birds active within the Master Plan areas and within a 200-foot buffer of the project site to determine the presence or absence of these species. If these species are determined to be present, the applicant shall follow the guidelines outlined by the California Department of Fish and Wildlife (CDFW):

- If an active tri-colored blackbird nesting colony is found during preconstruction surveys, a minimum 300-foot no-disturbance buffer shall be established in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015). The buffer shall remain in place until the breeding season has ended or until a biologist determines that nesting ceased, birds have fledged, and are no longer reliant upon the colony or parental care for survival.

- If burrowing owls are found on-site during the nesting season (February 1 to August 31), they shall be avoided by a work-free buffer unless it has been determined by a qualified biologist that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows have fledged and are independent of their parents. The buffers shall be established with CDFW according to the guidance in the Staff Report on Burrowing Owl Mitigation (CDFG 2012). The disturbance-free buffer shall be clearly defined (e.g., with orange construction fencing), and a biological monitor shall visit the site randomly throughout the breeding season to ensure the area remains work-free and the owls are not negatively affected by construction activities. ~~250-foot work-free buffer until it has been determined by a qualified Biologist that the young have fledged and are independent of their parents. The 250-foot week-free buffer will be clearly defined (e.g., with orange construction fencing), and a biological monitor will visit the site randomly throughout the breeding season to ensure the area remains work-free and the owls are not negatively affected by construction activities.~~

- If loggerhead shrike or any other migratory birds are found nesting on-site, a 50-foot work-free buffer area will be established and monitored by a qualified Biologist until young have fledged and are independent of their parents. Again, nests and work-free buffers would be monitored.

- If burrowing owls occur on the project area during the wintering season (September 1 to January 31), and construction is slated to begin during this time and active burrows cannot be avoided, an eviction of owls can be conducted to ensure owls move off the site prior to commencement of construction. The eviction process includes the installation of one-way doors that remain in all burrows of suitable size for at least 3 days, monitored by a qualified Biologist, and then hand-excavating burrows to ensure no owl remains in the burrow. Once the site is clear of owls, the burrows can be backfilled, after which ground-disturbing construction activity can commence.

- In the unlikely event burrowing owls are found on-site, mitigation lands must be purchased to offset the loss of their habitat. The standard mitigation lands required to loss of habitat is 6.5 acres for every pair of owls found on-site.

- If nesting birds are identified during preconstruction surveys, a qualified biologist shall conduct a survey to establish the behavioral baseline for all active nests. Active nests will be monitored daily to detect behavioral changes. If negative behavioral changes occur, additional avoidance and minimization measures shall be implemented in consultation with CDFW.

- If daily monitoring is not feasible, active non-listed bird species' nests shall be protected by a no-disturbance buffer of 250 feet, and a no-disturbance buffer of 500 feet around active non-listed raptor nests. These buffers shall remain in place until a qualified biologist determines that the birds have fledged. Variance from these no-disturbance buffers may be permitted when there are biological or ecological reasons to do so, such as physical barriers.

Page 3.14-16, Mitigation Measure BIO-1b

Mitigation Measure BIO-1b has been revised include California Department of Fish and Wildlife recommendations.

MM BIO-1b No more than 10 ~~14~~ days prior to ground-disturbing activities during the breeding season (February 1 to August 31), a qualified Biologist shall perform pre-construction surveys for the Swainson's hawk in accordance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. In accordance with the guidelines, surveys shall occur within a 0.5-mile radius of the site, and shall involve a minimum of two survey periods. In the event that one or more Swainson's hawks are observed to be nesting, a work-free buffer area shall be established and monitored by a qualified Biologist. The Biologist shall have the discretion to determine the appropriate buffer, which may involve consultation with the CDFW, as appropriate. The Biologist shall determine when the nest has been vacated, at which point, the work-free buffer area can be removed.

If an occupied nest is found, an in-depth assessment by a qualified raptor biologist to determine appropriate buffers will be conducted. Accordingly, a nesting buffer shall be established in consultation with the CDFW that accurately reflects current research and site conditions that could exacerbate or diminish a likelihood of impact to the nesting Swainson's hawks. In accordance with the survey protocol, all activities that are 200 yards or greater from a nest site, assuming that the Swainson's hawks are moderately acclimated to human disturbance (which would be the case in the area of the project site), would represent a Low Level of Risk to the nesting Swainson's hawks. Such considerations will be addressed by the qualified raptor biologist who conducts the nesting survey and who will present an analysis of the effects of the project on the nesting Swainson's hawks to the CDFW. The qualified biologist's analysis will also recommend a buffer size that will protect the Swainson's hawks from the deleterious

effects of disturbance. Any protective nesting buffer would be maintained until the Swainson's hawks complete their nesting cycle. A completed nesting cycle would occur when the young are fully fledged and independent of the nest site or the nesting attempt has failed and the adult Swainson's hawks are no longer defending the nest site. If a qualified biologist does not monitor the nesting attempt to ascertain the completion of the nesting attempt, the protective buffer shall remain in place until September 15.

Removal of known recent raptor nest trees, even outside the nesting season, will be replaced with an appropriate native tree species planting at a ratio of 3:1 at or near the Master Plan area or in another area that will be protected in perpetuity to reduce the impacts resulting from the loss of nesting habitat.